

LEGISLATIVE BUSINESS.

TRAVANCORE AGRICULTURISTS' RELIEF
BILL.—(contd.)

Clause 34.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Sir, I beg to move the following amendment:—

In Clause 34, for the first paragraph substitute the following, namely:—

"Notwithstanding anything in any law, contract or decree or order of Court, no interest shall accrue, or be permitted to be recovered as accruing, for a period of three years from the date of the commencement of this Regulation, in respect of any debt (not due in paddy or grain) in existence on such date, at any rate exceeding six per cent. per annum."

Sir, this clause is identical with the Clause that found a place in the Bill as recommended by the Select Committee for the consideration of this House. At the second reading of the Bill this House adopted the Clause that now finds a place in the Bill and that reads thus:—

"Notwithstanding anything in any law, contract, decree or order of Court, no interest shall accrue, or be permitted to be recovered as accruing from and after the first of Chingam 1105 up to the termination of three years from the date of the commencement of this Regulation, in respect of any debt (not due in paddy or grain) in existence on the date of the commencement of this Regulation at any rate exceeding six per cent per annum."

The House must be aware of the difference between the two provisions. The one object of both the Clauses is that the interest should be reduced to 6 per cent. The Select Committee recommended the reduction of interest with effect from the commencement of the Regulation, to operate for a period of three years thereafter. But by the amendment passed at the second reading stage, it is to take effect from 1105 Chingam and to operate therefrom till the passing of the Regulation and for a period of three years thereafter. It is also perhaps the intention of those who favour this amendment that whatever amount might have been paid by a debtor to a creditor by way of interest till the passing of the Regulation must be refunded by the creditor to the debtor. (A voice, No) I hear a "No." I am prepared to accept that that was not the intention perhaps of those responsible for the amended provision. But the amended Clause is perfectly capable of the construction that I put on it; and, therefore, irrespective of the actual intention, the effect of the Clause may be that the creditor will have to make a refund of interest received. If the law lays down that no interest has accrued beyond a certain figure, for the period from 1105 Chingam, the money that was given to the debtor, though by way of interest, would be money given for nothing and may be claimed back. This construction has necessarily to be put if this Clause is not to lead to certain anomalies. If this construction is not put, the man who was regular in paying the interest could not get back his money; and the man who

defaulted to pay interest need not pay it. So it comes to this. The man who was punctual in payment turns out to be a fool, and he who tried to defeat or delay his obligations turns out to be a wise man. I do not think that such a construction would be put on the Clause. However the two Clauses are there and they are fundamentally different. And the Clause that finds a place in the Bill is retrospective. I shall not dilate on this point as I had fully explained it to the House when this Clause was under debate on the last occasion. I think that it must be quite clear that this provision is expropriatory. It may be that such expropriation is justifiable or not justifiable. That may be a matter of opinion. But there can be no doubt about the actual fact that it is expropriation and expropriation too without even a pretext of compensation. Whether it should be supported as just or condemned as unjust may depend upon other considerations and may be a matter on which there is difference of opinion. It seems to me Sir, that it is a provision for expropriation without any justification. I had stated at length on the last occasion that it is unjust and I shall not proceed to reiterate all that I said. It is particularly unjust because there is no assurance of even the reduced interests or at least a portion of it being paid forthwith. During the period under reference there has been a fall in commodity prices and therefore it may be urged as reasonable that a proportionate reduction should be made on the money that is payable as interest on a loan. This by itself cannot be said to be a *sufficient* reason. In any event, it does not take notice of the fact that the argument cannot apply unless the money was actually paid during the period and was available to the creditor for the purchase of commodity. When that money was not paid at that time for use it does not look reasonable that he should accept a reduced amount now, simply because there was a fall in commodity prices at that time. Even if it be urged that there is fall in prices now the reduction cannot be insisted on unless you actually pay the money now. Further; we cannot overlook the fact that many people need the money for other purposes than purchase of commodities and therefore the argument of fall in commodity prices cannot be of general application. At this point, the House will remember that many people might have received deposits of moneys from other people and may have already paid interest. The Banks for instance take deposits of money from various people and pay interest. Now they are to be asked to accept a lesser rate of interest from their debtors, while they paid a higher rate. I think therefore that if it is a question of justice between party and party, between creditor and creditor, the provision of a general rule as embodied in the clause Cannot be supported as just.

Examples of Provinces in British India are cited in this connection and perhaps that may be one of the reasons which might weigh with the honourable members in coming to a conclusion on the motion now before the House. The situation there is really different. There is no law in British India to limit the rate of the interest that may be charged as between creditor and debtor. And as a matter of fact interest ranging up to even 50 per cent. is charged by creditors. The only legal

[Mr. Kayalam Paramesvaran Pillai.]

provision that affords protection against this is what is called the Usurious Loans Act. Every rate of interest is legal there and will be upheld unless the Usurious Loans Act is applied. Whatever might be the rate of interest charged by the creditor the only way to get it reduced is to move the court in the appropriate proceedings and prove to the court that the rate is usurious in the actual circumstances. It is all a matter of pleading and proof. Now, in the case of the poor illiterate cultivators it may not be possible for them to take this procedure and get the interest reduced. The protection under the Usurious Loans Act was but a mere theory therefore. Therefore the Legislature has stepped in to say that they will bring about the reduction by some mechanical method; and thereby they did not really do anything more than what the usury law would have done if pursued in proper form. Really the law reducing interest was only an application of the law against usury and that is very well understood and recognised there. Recently a Leader writer in India writing on this subject wrote:

"Few, if any, of the legislative measures hitherto undertaken in the various Provinces of India and the States make conscious provision in respect of the claim for relief arising from the fall in prices violently disturbing the relations between debtor and creditor. Most of the legislative measures hitherto undertaken are based either on the principle on which the law regarding usurious loans and money-lending is based or on the principle of bankruptcy legislation."

I am reading from the "Hindu" of November 12, 1936 and the leader was on the subject of the Travancore Bill. I entirely adopt that argument. As a matter of fact, the remedy proposed by our Bill falls into two classes. One is based on the bankruptcy principles and the other on the principle of the law against usury. Conciliation of debts falls under the former class, as it seeks to adjust the liability to the assets. The other is the compulsory reduction of interest and is based on the principle that usurious interest will not be allowed. In the British Indian Provinces the reduced interest is as high as twelve per cent. and more, and never is so low as six per cent. proposed here and that reduction was in fact a reduction from a 40 or 50 per cent. rate prevalent there.

MR. K. KUNJUKRISHNA PILLAI (*Quilon I*): May I know whether it went up to 40 or 50 per cent?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Yes, it did.

MR. K. KUNJUKRISHNA PILLAI (*Quilon I*): May I know whether the usual rate of interest ranges very high?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Sometimes it did; and that is because there is no statutory provision there to limit the rate of interest except the Usurious Loans Act. What that Act would have given by appropriate proceedings was given by the Legislature when it fixed the rate of interest. I can quote a case where the High Court of Allahabad fixed that 24 per cent. rate was an usurious rate of interest. There was no statutory limitation to the interest; it was left to the judgment of a court.

MR. P. C. KURIYAN (*Kottayam I*): May I know whether the Usurious Loans Act is expropriation.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): No, it is not.

Now what are the conditions here?

Here, the law said, you may put the interest up to 12 per cent. The law guaranteed that such a rate was lawful and was not usurious. The Legislature said it. Now the Legislature comes in and wants to say that that rate should be reduced. The 12 per cent. rate was ordinary; and it was called *കുറ്റുകര*, or "standard interest." Now, is it right for you to say that you will not allow that rate to be recovered even though you allowed it to accrue? That is the real point in reducing the interest for a past period.

MR. E. V. KRISHNA PILLAI (*Pattanamtitta*): By this Bill you are to a certain extent depriving the creditor of the interest that is due to him in future.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Yes, to some extent. That too may be considered expropriatory, perhaps; but there is a difference. It is open to the creditor to demand the principal at once and recover it by all means available under law and keep back the money unless he is satisfied with the rate of interest.

MR. E. V. KRISHNA PILLAI (*Pattanamtitta*): Suppose he makes delay and the debtor fails to pay. In that case is he not liable to penalisation?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): May be. But that is always incident to loan transactions. Therefore a reduction of interest for a future period may be justified; but a retrospective reduction would be unjustifiable. The agriculturists are no doubt in distress. I can understand that. But sitting here as Legislators we can act only on certain principles; and our heads must get the better of our hearts.

MR. E. V. KRISHNA PILLAI (*Pattanamtitta*): Was it not because he was unable to pay the interest that he was not doing so last year?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): It may or may not be. Assume that it was so.

MR. E. V. KRISHNA PILLAI (*Pattanamtitta*): Is it not on the principle of inability that this provision is made here?

MR. KAYALAM PARAMESWARAN PILLAI (*Additional Head Sirkar Vakil*): No, it is not. That is my point. I will show presently that for that man who was not able to pay there is provision in the Bill already and that the Clause 34 as introduced at the second reading goes to benefit that man who is not prepared to show he was not able to pay.

MR. E. V. KRISHNA PILLAI (*Pattanamtitta*): Why then has the provision for future reduction made here? Is it not on the principle that the agriculturist is not able to pay the present heavy interest?

Vol. IX No. 3,

MR. KAYALAM PARAMESVARAN PILLAI (*Additinal Head Sirkar Vakil*): That may be; but it must be noted that it is open to the creditor to recover the principal itself forthwith on the ground that the rate of future interest has been reduced. We are only telling him by this enactment that if he wants the debtor to retain the money the creditor will get only a lower rate of interest. If the creditor is not prepared to accept such lower rate of interest in future he has got the opportunity and the right to recover the principal itself.

PRESIDENT: I think it will be conducive to our convenience if the honourable member is allowed to finish. It is a very important point that we are now discussing, and I do not want the discussion to be restricted. Frequent interrogation may interrupt the train of the Law Member's argument. It is open to the other members to put forth their points of view after the Law Member has finished.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): I was trying, Sir, to point out that while our law expressly guaranteed a particular rate of interest, while the creditor and the debtor entered into the transaction relying on that statutory guarantee, it would be entirely unjust to the creditor, not to speak of its being opposed to public policy, now to step in and tell him that we withdraw the guarantee and reduce the rate of interest with effect from a past date.

I quite realise, Sir, that the agriculturist is in distress, and I am prepared to admit that he is in need of relief. But legislators, that we are, have a larger duty here than the protection of some individuals merely because their present condition deserves our sympathy. The responsibility of this House centres on a much larger principle than the safeguarding of the pecuniary interest of some individuals. In a legislation of this kind, it is the head that should control us more than the heart. I would therefore appeal to the House not to be carried away by sentiment or by feelings and to consider carefully whether there is any justification for our withdrawing now the guarantee to which statutory recognition had been given.

Sir, I shall not dilate further on this point as I have already dealt with it at length at the second reading. I shall draw attention to just one or two points which I did not perhaps emphasise on the previous occasion. Firstly, let me say that it would be absolutely unwise on our part to embark on a piece of legislation which will shatter credit in the State. The House will remember that in the Madras Finance Member's speech that I quoted yesterday, credit has been referred to as a "delicate fabric". I suppose that it is admitted by all that credit is absolutely essential for a society such as ours is. In olden days there was no social dependence as there is at present. Each man was living on his own exertions and depended on himself only for every thing, and if anybody had money in excess or to spare he would rather keep it buried in the ground underneath his cot than let another man make use of it on credit. Gradually, in more recent years, people began to lend, that is to say to let others use the money, but it was done on pledge

of gold. But now lakhs and lakhs of rupees are lent freely. For instance they flow into the numerous banks in the country in return for a mere scrap of paper, and large amounts are being lent between party and party on mere signed paper, say a promissory note. It is undoubtedly recognised that such credit facilities are absolutely necessary for the economic growth of our society. In Travancore, Sir, especially now when the Government are trying to industrialise the country, it is very necessary that credit facilities are available to the people. We must see that the written and signed word of everyone in the country would be honoured and that law will compel it to be honoured. Unless that is assured, it will be a bad day for us; the delicate fabric of credit will be torn asunder. It would be very unwise on our part to allow it.

Yesterday, I was quoting the experiences of the Madras Special Loans Officer. He has said that there, in many cases, the debtors themselves were against the scaling down of the debts, in spite of the fact that such scaling down was absolutely voluntary, for fear that their creditors who have all along been helping them with loans may not do so hereafter. That shows, Sir, how much credit facilities are being valued by the debtors themselves. I would therefore appeal to the House not to be a party to anything that would tend to shatter credit, not merely the credit of the State as such but also the credit between party and party, between private individuals within the State.

When I speak of the shattering of credit, it is not mere theory, Sir. It is a hard fact. The House will remember that when the Government introduced this Bill, and later even when the Select Committee made very drastic changes in it supposed to affect the creditors, the creditors in the country did not raise their voice of protest, since evidently they also knew that the condition of the agriculturists deserved some consideration. But the moment that this House passed the provision reducing the interest that had *already* accrued, they got alarmed and submitted memorials to the Palace and petitions to the Government; they waited in deputation upon the Dewan.

MR. S. J. NAIR (*Nedunangad*): May I know whether it is as a result of such deputations by the creditors that the Law Member is now proposing his present amendment?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): No. Not at all. Government feel, as they all along felt, that the right thing to do is to reduce interest only for a future period. If the right honourable member would kindly refer to my speech at the second reading which was *before* the creditors memorialised the Government, he would find that my condemnation of the proposal to reduce past interest was much stronger than the words I used to-day.

The alarm that the retrospective provision caused in the minds of the creditors in the country will show how much reliance they had placed on the statutory assurance that they had in regard to the rate of interest. Sir, our provision regarding interest has been in force for more

than 10 years; and during that period it has been found that the rate of interest has been maintained at a level which is not only fair but also beneficial to the country.

[Mr. Kayalam Paramesvaran Pillai.]

than a century. It would be entirely suicidal on our part to shatter the credit in the country for the sake of helping some individuals. It will be like cutting one's nose to spite the face as it were, like losing a bigger thing in attempting to catch a smaller one.

There is no doubt, Sir, as I have already stated, that the agriculturist needs relief and relief has been provided in the Bill by the conciliation provisions. And, as I said yesterday, Government are prepared to go to establish a large number of Boards even to start with. In regard to the relief to the individual debtors, it must be done having regard to the circumstances of each case. If a man is fully able to pay, why should he be given the same relief that we extend to another who is not really able to pay?

MR. PUTHUPALLI S. KRISHNA PILLAI (*Quilon II*): May I ask whether the idea of the Law Member is that the relief to be given is also to be only experimental?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): The question is not clear to me.

MR. PUTHUPALLI S. KRISHNA PILLAI (*Quilon II*): The Law Member said yesterday that the Boards are to be tried as an experimental measure and now he says that the Boards are the only kind of relief that he would give to the agriculturists. Therefore I am asking whether he would give to the agriculturists only an experimental kind of relief.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): No, Sir. The relief is not experimental. It is the method adopted that is experimental. I suppose we are not playing upon words now. If, in the case of a debt of say, Rs. 1,000, the Conciliation Board may reduce it to Rs. 500, certainly that will be substantial relief to the debtor and not experimental. It will be felt by him. There is no experiment involved in it. It is an actual saving that he gets. What I suggest is that if conciliation is not found to work satisfactorily, other methods may be tried.

Sir, I would at this stage draw the attention of the House to Clause 19 of the Bill which does provide for the reduction of interest even from 1105 Chingam in deserving cases. If the parties are agreeable to go to conciliation, and if the conciliation fails it is open to the court, when the matter goes there, to consider the circumstances of the case and, if necessary, to reduce the rate of interest even retrospectively from the very 1105 Chingam, that is in the Clause adopted at the second reading. That is a very safe provision; because it will be available in appropriate cases and not in others. It will not help the rich man who wants to conceal his assets, one who is not prepared to place all his cards before the Conciliation Board and to prove that he deserves the relief. Clause 19 is based on recognised principles of bankruptcy legislation and applies to deserving cases. Why reduce the rate of interest when the man is able to pay? That is the question, I ask. The Clause that I now seek to delete may be availed of by everybody alike, and that is why creditors are alarmed. So then the position is this; for the poor man there is provision in Clause 19; for the rich man we ought not to make a provision which is expropriatory.

I want the House to realise also, Sir, that this provision for retrospective reduction of interest is absolutely useless to the bulk or the debtors, those who really need relief, and that this provision will benefit *only* the rich man. Sir, for the ordinary poor debtor, a mere reduction of the interest is not going to be any relief at all. Of course, one side of the House may score a spectacular victory if the provision in the Bill is allowed to stand as it is. But, certainly, that is not going to afford any real relief to the bulk of the agriculturist debtors of the country. There is a Malayalam saying :—

“വെള്ളം മുക്കറമായാൽ മൂന്നാളായാലെയും, നാലാളായാലെയും?”

I do not know Sir, if you understood the meaning of this Malayalam saying. It means that if the level of the water in a river goes beyond the level of the nostrils of a man who is caught in it, it does not matter whether it goes up by three men's height or four men's height and that therefore it is no relief to him if water to a depth equal to, say a man's height, is removed from above him. Similarly, for the ordinary agriculturist what does it matter if interest alone is reduced? It would be like removing a few inches of water from above him while there is many feet of water above him. He would not get any relief; he would still be under the pressure of debt. To give him relief, not merely interest but also a portion of the principal must be reduced. Then only can he stand up. And that would be done by the Conciliation Officer who examines the debtor and the creditor and their affairs and then proposes a proper adjustment of their affairs.

MR. P. C. KURIYAN (*Kottayam I*): Will not the creditor also be affected by the Conciliation Board?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Yes. He will be affected exactly as in bankruptcy proceedings.

MR. K. C. ABRAHAM (*Kottayam II*): Does it not mean that we will have to look into the condition of the party—whether he is able to pay his debt or not?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Yes, that will have to be looked into.

What I want the House to consider is that the Bill provides for the reduction of interest in deserving cases, and I do not object to it. All that I object to is that there should not be a uniform reduction of interest as in Clause 34 irrespective of the ability of the debtor to pay or not.

MR. K. C. ABRAHAM (*Kottayam II*): Am I to understand from the speech of the Law Member that there are two classes of debtors, the first who are able to pay, and the second, those who are unable to pay?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Yes, there are.

MR. K. C. ABRAHAM (*Kottayam II*): Am I to understand then that the Law Member wants this Clause to apply only to those who are unable to pay because of improvidence?

MR KAYALAM PHRAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Yes. We need not provide relief for the rich debtor who is able to pay. It is believed that the agitation for this reduction of interest comes from the class of debtor who is able to pay. I ask the House not to be influenced by the crocodile tears of this class of people, who are well able to pay. The House should provide relief for those debtors who are really unable to pay their debts. This provision in Clause 34, as it is, is worse than useless. Therefore let us substitute the Clause that I propose.

PRESIDENT: I have received notice of certain amendments. I think it will conduce to the convenience of the House if the amendments are moved now and discussion takes place generally on them and then the final voting can take place according to convenience.

MR. R. SAMBASIVA AIYAR (*Kunnathnad II*): Sir, I move the following amendment:

In amendment No. 10 to Clause 34 for the words 'Notwithstanding any thing in any law, contract decree or order of court, no interest shall accrue or be permitted to be recovered as accruing' substitute the words 'No court shall by its decree or order allow interest to be recovered'.

My object in moving this amendment is to see that the credit of the State is not impaired as much as it is sought to be done by the present amendment. According to the language of the present amendment, interest cannot accrue at any rate exceeding 6 per cent in spite of contract to the contrary. Even if a party agrees to pay interest at the rate of 9 per cent, and actually pays the interest, he can, after this law is passed sue the creditor for the refund of interest because according to the law that we are enacting interest cannot even accrue at a rate exceeding 6 per cent per annum. That is an unfortunate position. There are many persons who are able and willing to borrow money at a higher rate of interest than 6 per cent. Most of the agriculturists in the State are persons who have subsidiary occupations such as trade. The definition of 'agriculturist' is so wide that it will embrace almost 85 per cent of the people of the State. It will include agriculturists with subsidiary occupations such as trade, business, and cottage industries. Many of these people borrow money pledging pepper or other agricultural products. During the agricultural season they carry on agricultural operations and at other times they take to trade or business. Such persons have to borrow money from banks pledging their goods. Hereafter the banks will not lend money to such people because they are agriculturists though they agree to pay higher rates of interest. I submit, Sir, that the language of Section 31 of the Civil Procedure Code, which prohibits courts of law from interest at more than 12 per cent, may be followed in this case also. The prohibition there is that the court cannot decree more than 12 per cent. It is left to the parties themselves to agree to pay more than 12 per cent. A similar procedure should be adopted here also. Why should we say that no interest shall accrue at more than 6 per cent notwithstanding anything in any law, contract, decree or order of court? If the party is agreeable to pay and does pay more than 6 per cent, why should we prohibit that?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): On this principle will the member advocate the recovery of even more than 12 per cent if it is agreed to?

MR. R. SAMBASIVA AIYAR (*Kunnamad II*): If the parties agree to that, it should be done. Even if it is cent per cent it should be allowed. Nobody is prejudiced by that.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Is the member then criticising the existing law which limits interest to 12 per cent?

MR. R. SAMBASIVA AIYAR (*Kunnamad II*): The existing law does not limit interest to that extent. It only says that no court shall allow more than 12 per cent. The people may pay or receive more, if they so choose. That is the effect of the present law. That has stood the test of more than a century. I submit, Sir, that for the next three years the law should be so modified that the courts could not enforce more than 6 per cent interest. But if the parties are willing to pay more than 6 per cent, then the creditors should not be asked to refund the interest paid.

MR. A. S. DAMODARAN ASAN (*Mavelikara*): Is there any provision for refunding the amount by the creditor after the transaction is closed?

MR. R. SAMBASIVA AIYAR (*Kunnamad II*): I submit that it is the effect of the language used in the Clause. The Clause says that no interest shall accrue in spite of any contract, and if the creditor receives such higher interest, it will certainly be considered as a mistake. I submit that it is the effect of the law. In this connection I would refer the House to para 26 of the memorandum of the High Court.

MR. A. S. DAMODARAN ASAN (*Mavelikara*): Sir, I rise to a point of order. The memorandum has not been supplied to any of us.

PRESIDENT: I am told by the Secretary that it has been placed on the table. When this question was raised in another form yesterday, I was informed that it would be immediately placed on the table of the House. I understand that it has been so placed.

MR. R. SAMBASIVA AIYAR (*Kunnamad II*): The honourable judges of the High Court observe:

"The provision that no contract will be enforced beyond 6 per cent interest will considerably affect the credit not only of agriculturists, but of business men and individuals in the whole State."

I submit, Sir, that there are agriculturists who are prepared to borrow at a rate exceeding 6 per cent. They should not be prevented from getting loans at such interest if they want the same. Again, the definition of the term 'agriculturist' is so wide as to embrace all persons even though they are not ordinarily agriculturists. If a person has a subsidiary occupation, that person also will come under this provision. So I submit that the language of the Clause should be so amended as to be in consonance with the old Regulation I of 1010 reenacted in Section 31 of the C. P. C. With these words I move the amendment.

Sir, the next two amendments are consequential to this and I may be permitted to move them now.

PRESIDENT: Yes.

MR. R. SAMBASIVA AIYAR (*Kunnamad II*): I move :

"In the Explanation to Clause 31. (connected with amendment No. 10) for the words 'interest shall accrue and be permitted to be recovered as accruing' substitute the words "interest shall be allowed to be recovered."

In Clause 35 (connected with amendment No. 10) for the words "Notwithstanding anything in any law, contract, decree or order of Court, no interest shall accrue or be permitted to be recovered as accruing' substitute the words 'No Court shall by its decree or order allow interest to be recovered'."

MR. T. S. JAYANTAN NAMBOOTIRI (*Jemmies, North*): I second the amendments.

MR. A. S. DAMODARAN ASAN (*Mavelikara*): The Law Member wants to have the Section 34 amended. But Mr. Sambasiva Aiyar wants to amend Section 35 by moving his amendments to Section 34. He simply says that it is connected with the other amendments.

PRESIDENT: At the present moment we are dealing with Clause 34 and for the present only amendments to Clause 34 will be moved and debated. Therefore I take it that Mr. Sambasiva Aiyar has moved the amendments to Clause 34 and to the Explanation thereof.

MR. R. SAMBASIVA AIYAR (*Kunnamad II*): The Standing Order concerned is this:

No amendments other than those connected with the amendments moved on behalf of Government shall, without the special permission of the Dewan, be brought up for consideration at this stage.

My amendment therefore is connected with the amendment to Clause 34.

PRESIDENT: We are now discussing Clause 34. After Clause 34 has been disposed of, it is open to the honourable member to say what he desires to observe with regard to Clause 35. At the present moment all that is permissible is the consideration of amendment to Clause 34. I take it that those amendments have been moved and seconded.

MR. S. J. NAIR (*Nedumangad*): Sir, I oppose the amendments moved both by the Law Member and Mr. Sambasiva Aiyar to Clause 34. I oppose these amendments with a feeling of despair and despondency. I emphatically and purposely submit that I oppose these amendments with a feeling of despair and despondency. Whatever be my advocacy for the cause of the poor agricultural debtors of the State, I know for certain that their interests will be frustrated by the Government at this rate. The poor agriculturists would be reduced to a position of landless and helpless people in the State and it is not far off when this may lead to an economic and social revolution at this rate. Sir, I find the Law Member submitted that the creditors were alarmed and the Government also say that the creditor class is alarmed. That being so, the Government are compelled to bring forth such amendments to safeguard the interests of the creditors and to negative the Bill that has already taken shape at its second reading here. From the Census of

1931 we find that the bankers, money-lenders and such Shylock class of people number about 2,825 persons out of a population of 50 lakhs and odd of people. The agricultural population comes to more than 11 lakhs of people. From the statement made by Government it seems that the Government are prepared to surrender or fall at the feet of the creditor classes of the State. A microscopic minority amongst the population of the State who number about 2,000 and mainly composed of pensioned officers belong to the category of money-lenders. They have no real stake in the State and they have not done any assistance to the poor agriculturists. The bankers in the State have been a set of cutthroats and they have not done any good to the poor agriculturists. I am really sorry that the Government at this stage has come to the rescue of these bankers and money-lenders.]

PRESIDENT: Order, order. The honourable member must remember that his speech should not comprise words that are either defamatory or seditious.

MR. S. J. NAIR (Nedumangad): I never mentioned any names, Sir.

PRESIDENT: I heard the member saying that there will be an economic and social revolution in the country. Those words are seditious.

MR. S. J. NAIR (Nedumangad): Then I withdraw those words. I never meant sedition when I used those expressions. I will be the last person to use such seditious words. I am the most loyal of all loyal citizens. I am sorry that the President has understood that word like that.

PRESIDENT: Order, order. I definitely heard the honourable member say that the landless classes will rise in revolution.

MR. S. J. NAIR (Nedumangad): I said that it might lead at this rate to revolution.

PRESIDENT: Order, order. Unless the honourable member withdraws that expression I shall have to take steps.

MR. S. J. NAIR (Nedumangad): I have withdrawn that expression. And, I withdrew it unconditionally, Sir.

PRESIDENT: I am glad, Mr. S. J. Nair will now proceed.

MR. S. J. NAIR (Nedumangad): Coming to the amendment, what I wish to submit is this. A Committee was appointed to go into the question of indebtedness of the agriculturists in the State. The Committee was composed of responsible members of the Legislature and after a detailed enquiry of the pros and cons they have submitted a report. The Committee have recorded on page 112 of the Report their considered opinion, on the question of interest as follows:—

"In the case of debt transactions entered into before 1105, whether a decree be passed thereon or not, the interest payable thereon for the period from 1105 up to the date of any enactment passed for the purpose should be at one-half of the rate of interest payable if the enactment had not been passed or at 4 per cent. whichever is larger, provided that payment of interest is made before such date as Government may fix from time to time. If the agreed rate is less than 4 per cent. such rate should prevail."

[Mr. S. J. Nair.]

Further the Committee recorded their opinion as follows:—

"The interest allowable on transactions entered into by agriculturists from and after 1105 up to the date of any enactment that may be passed for the purpose or some other specified date, should in no case exceed 6 per cent- (Sir, I emphasise the words, should in no case exceed 6 per cent) whether the debt be secured or unsecured, if payment is made within three years from the date of the enactment, provided however, that in the case of banks which have been receiving deposits in the regular course of business and have been issuing loans, it should be in the discretion of the court to allow interest up to 9 per cent. instead of 6 per cent."

The Bill is said have been drawn up after the recommendations of the Committee. When this Bill came up for the second reading this House passed amendments in accordance with the recommendations of the Committee. Now it surpasses my imagination why the Law Member has come forward with the present amendment to negative the usefulness of the Bill. If his amendment is carried, and I hope Government may succeed to carry through this amendment, the agriculturists will be doomed. So I request the Government, in all earnestness and sincerity, to withdraw even the Bill itself. Why should a Bill bearing the name of "the Travancore Agriculturists' Relief Bill" be brought forward if such amendments are to be carried out and the good results of the Bill are nullified? Why should this Bill find a place in the Statute Book of the State? I challenge the Law Member to point out to me one provision at least in this Bill which would show that the Government are safeguarding substantially the interests of the agriculturist debtors in the State. There is absolutely no provision in this Bill to help the agriculturists. If such amendments are carried, the agriculturists will be hard hit. I appeal in all sincerity on behalf of the dumb and helpless millions of agriculturists in this country to withdraw this amendment. I also appeal to the non-official members of the House to throw out this amendment and come to the rescue of the poor agriculturists of the State.

MR. E. V. KRISHNA PILLAI (*Pattanamtitta*): Sir, I oppose both the amendments before the House. To meet the points urged by the Law Member we should go to the first principles which gave birth to such a measure. It is rather an extraordinary measure, an abnormal legislation which under normal circumstances the Government or any other responsible body would not have thought of. It is a very extraordinary measure to a certain extent, more or less interfering with the legal rights of certain parties. There is the Conciliation Board proposed to be created. Over and above this there are courts in the land. Under normal times there is no necessity for the creation of Boards. Then there is a suggestion for instalment payments and also the Land Mortgage Bank coming to the aid of the debtors. These are measures which can be characterised as rather extraordinary. Why should Government think of launching upon a measure so extraordinary in character at the

present time? It was because the Government felt convinced that the circumstances are rather extraordinary. The Committee which enquired into the details of these abnormal circumstances have given expression to that in their Report. The Government therefore felt convinced that the poor agriculturists in the State stood in need of some kind of relief. This is the basic point on which we have to consider the provisions of the Bill.

It is stated by the Law Member in very strong language that if this amendment is not carried we would not be helping those who are rather improvident and who wanted to evade the payment of interest. That pre-supposes the existence of a set of people who wanted really to evade payment. That is an argument which would go against those who did not want this amendment. Were there such people in the lands? Has that come to the notice of the Committee that enquired into the condition of the agriculturists? Was there a considerable section of people coming under that category? At page 10 of the Committee's report to which the Law Member also has subscribed, the statement made is this;—

"There is a tendency in certain quarters to hold the agriculturists entirely responsible for the plight in which he finds himself at the present day. We do not think that it is just to ascribe the whole situation to the extravagance, improvidence, speculative dealings and unproductive borrowings of the agriculturists. It may be admitted that most agriculturists in this country have a great partiality for investments in land and sometimes they purchase land not for its economic value but at fancy prices. We are, however, inclined to the view that the agriculturists no more deserve these charges than the other classes of producers in the country. We find that, in this view, we are supported by the Banking Enquiry Committee who have recorded their considered opinion that the agriculturists of Travancore are not extravagant, as a rule".

That is the condition of the agriculturists of Travancore as described by the most authoritative Committee that enquired into the matter. Therefore if there was any failure on the part of the poor Travancore agriculturists to meet those obligations during these seven years commencing from 1105, it is to be taken for absolute truth that it was not because they wanted to avoid payment of interest, but because they were quite unable to pay. In spite of his very high personal honour and integrity he found himself quite unable to meet the situation. Therefore a measure proposed by the Government ought to help the agriculturists. So the argument that there was any wilful evasion on the part of the agriculturists to meet their obligations falls to the ground. We are now by this measure helping these agriculturists to tide over the extraordinary situation created here due to circumstances over which we had no control. If the agriculturist is asked to go forward with this heavy burden of seven years on him he is certainly helpless. It is for the purpose of saving him from the plight to which he has been reduced on account of the abnormal fall of the price of agricultural produce that this measure is sought to be introduced. It was stated by Mr. Sambasiva Aiyar that the agriculturists have got other subsidiary sources of income.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Then why not ask these men to prove their inability before a Conciliation Board?

MR. E. V. KRISHNA PILLAI (*Pattanamtitta*): Because an investigation was made by a responsible body and it is found by the Government that no such proof is necessary and that the agriculturists as a rule are honest men who keep up their personal honour and who are desirous of meeting their liabilities. Therefore it would detract from the workable nature of the legislation if such a proof is thrust upon the agriculturists for getting relief. It is suggested that there are agriculturists, probably according to their fancy and imagination, of a considerable number who are having subsidiary occupations. I submit that if it is found either by the Board or by the court or by any other institution instituted for the carrying out of this legislation that the main source of income of a person is not from agriculture, certainly he should be necked out. No relief need be given to him. But if it is found that his main source of income is from agriculture then he is certainly entitled to the relief measures suggested in this provision. Therefore if we mean business and if we want to help the agriculturists to tide over this extraordinary situation the most important provision that is to be made here is contained in this Clause. It is stated that in the case of bankers they had been paying interest on the deposits received by them. They were paying it because they could afford to do it. They were not depending upon the prices of agricultural products. They were depending upon some other source of income. It cannot be said that the bankers are honest people simply because they were paying interest, and agriculturists dishonest because they were not paying the interest. These conclusions should not prejudice our judgment.

Then there is a threat held out both by the Law Member and Mr. Sambasiva Aiyar that if this measure is carried, the credit of the whole society would be shaken and that it would affect very prejudicially the interests of the agriculturists because they would not be able to receive loans from banks or other credit agencies. What would the credit agencies do with the money hoarded by them? If they find that they cannot make profit out of the money in their possession, certainly they would come down. They would say that they are satisfied with even one per cent. interest. That would certainly materialise and so this consideration also should not affect us when we are dealing with this point. Therefore it would certainly be in consonance with the spirit of the legislation if we maintain the original provision contained in the Bill as revised by the Select Committee and throw out this amendment.

MR. M. K. JANARDHANA KAMMATH (*Commerce and Industries, North*): Sir, I oppose the amendment. From the standpoint of creditors it is not fair to give retrospective effect to this Regulation. The amendment will work a great hardship on creditors. Transactions entered into till the date on which this Regulation comes into force should not be affected. Creditors who have advanced money could never have

expected that such a Regulation as this would come into operation affecting their right to realise the rate of interest agreed upon. Further, it should not be ignored that creditors themselves may owe larger sums to persons living outside Travancore and they would be liable to pay interest to them. Will it not be a great hardship to such creditors if they are debarred from realising interest from their debtors in Travancore from 1105 onwards? My only submission is that in giving relief to the agricultural debtors we should be very careful to see that no unnecessary trouble or hardship is caused to the creditors. With these words I support this amendment.

MR. A. S. DAMODARAN ASAN (*Mavelikara*): I support the amendment moved by the Law Member and oppose the amendment of Mr. Sambasiva Aiyar. Sir, when this House accepted the principles of this Bill it was admitted on all hands that some relief is necessary to the agriculturist in difficulties. The two ways in which he could be given relief are, one by lightening his burden, and the other by giving some time to pay up his debts. With regard to the question of giving him time for discharging his debts we have the provisions in Part II as well as III. With regard to lightening the burden of the agriculturists in difficulties there is provision in Part II of the Bill. In Part III which concerns with the reduction of interest the original provision in the Bill and that contained in the Select Committee Report is with regard to the future interest on existing liabilities and future debts. This House has, by an amendment, altered the date for the reduction of interest from the commencement of the Regulation to first Chingam 1105. The ground that has been advanced in favour of this change at that time was that the prices of the agricultural produce have gone down and on that account the agriculturists are not in a position to discharge their liabilities. In this country we do not find two entirely distinct classes as creditors and debtors, nor could we find two entirely distinct classes as agriculturists and non agriculturists. It is open to any person to become an agriculturist under this Regulation by becoming a servant of an agriculturist or if by purchasing an inch of land anywhere. In a short time we will find that there will be many agriculturists by purchase of some lands in the court sale. Even if they are not willing they will become agriculturists out of necessity. That is why, even when this Bill was introduced, I wanted to make it as comprehensive as possible. If owing to the fall in the price of produce the country has suffered as a whole there is no reason why a Bill which is brought forward with the intention of helping one section of the agriculturists should prejudice another section of them. The definition of agriculturists has been widened to the utmost possible extent. Even a surety of an agriculturist or the member of a family of agriculturists though he may be a Government servant or not, becomes an agriculturist under our definition. What is it that Clause 34, as it stands at present, enacts? It says that from first Chingam 1105 interest shall accrue and shall be allowed to be recovered only at 6 per cent. or one-half of the contract rate whichever is higher.

[Mr. A. S. Damodaran Asan.]

An attempt is made to unsettle all transactions which have come into existence during the last seven years. All expectations that have been legitimately raised on the guaranteed protection of the law of the land should be frustrated. If this amendment is passed there is no question as to the debtor or creditor being protected by the nature of the debt. Sir, with regard to the debts that were due before 1105, and are yet to be discharged we can more or less infer why those debts still remain unpaid. For seven years have elapsed; either the creditor was indulgent enough to give the debtor sufficient time or the creditor is a poor man without sufficient resources to recover the debt from the debtor who might be in a much better position. Under those circumstances is it proper now to say that those creditors who have not yet realised their dues on account of leniency or on account of helplessness should suffer now? Sir, the credit in this country has suffered very much after the introduction of this Bill. (Hear, hear.).

Not that I am speaking on behalf of either creditor or debtor, but in such matters it is absolutely necessary that no delay should be caused. I might also be permitted to say, to quote your own statement, that "delay means denial". Under the conciliation chapter there is ample provision to give relief to all deserving debtors. When an amendment was moved for limiting the area of operation of Boards, I very vehemently opposed that amendment, because I was very anxious that that form of relief must be extended to all deserving persons. Though unfortunately I was defeated, there is the promise of the Law Member that Boards would be extended throughout the State without much delay. Whatever that be there are those provisions. If there is any delay in the establishment of Boards, there is this Assembly to press upon Government the necessity of establishing Boards throughout the State; it would be found that under the conciliation chapter power is given to the Conciliating Officer to reduce the interest as well as the principal. And an objection might be stated that that is a voluntary affair and if any creditor refuses to accept conciliation he will not be bound by it. But there is another Section in the same Part i. e. Section 19 which says that if a creditor without caring for the decision of the Conciliation Officer rushes into the court, the court is competent to reduce the interest on that sum from 1st Chingam 1105 to 4 per cent.

MR. P. C. KURIYAN (*Kottayam D*): So, that question settles the State's guarantee?

MR. A. S. DAMODARAN ASAN (*Mavelikara*): Yes, to the extent that is proper. The creditor as well as the debtor are given sufficient opportunity to place their cases before the Conciliation Officer for decision. My friend should understand the distinction between subjecting to the decision of two tribunals and asking the Legislature to lay down a law to affect all persons. There is much difference between the two, Sir. Equitable relief should be given to deserving cases. What I was submitting is that under Section 19 power is given to reduce

interest from 1st Chingam 1105 to four per cent. So there is that provision under Section 19. What is wanted by this amendment is that a debtor who does not go before a Conciliation Board and convince the Board of the grounds on which he is entitled to concession, must be given a relief. Sir, is it not an accepted principle that when a legislation is enacted retrospective effect should be given only where there are very important grounds of public utility? Is there any such thing here? I do not think there is any ground for laying down as a provision of law that interest from 1105 should be reduced in all cases. Consider the case, Sir, where a comparatively poor person has advanced some money to his rich neighbour who happened to be an agriculturist. He must have given the money in the hope that after some years he will be able to recover the interest and the principal to give his daughter in marriage. Now when this poor man is expecting that he will get the whole amount to discharge his liability, both religious and social, he will be told, there is the law under which you are entitled to get only half of the interest. What the reason is for enacting this Clause I am unable to understand. As the learned Law Member observed, the only ground is that the debtors who are in affluent circumstances and are not prepared to go before a Conciliation Officer should get some relief. Is it proper that such a legislation should be enacted in this Legislature? Sir, I am firmly of the opinion that it will be inadvisable for this Legislature to adopt such a measure.

MR. K. KUNJUKRISHNA PILLAI (*Quilon I*): Sir, I rise to oppose the amendment moved by the Law Member as well as the amendments moved by Mr. Sambasiva Aiyar. Sir, the Law Member began by saying that he proposes this amendment with a view to take away an amendment that has been incorporated by this House at the second reading stage and to bring the Bill back to its original position. He also pointed out that that Bill as reported by the Select Committee did not contain any provision for giving retrospective effect to the rate of interest from and after 1105. I am sure, Sir, that this House will remember the Law Member sticking to the opinion expounded by the Select Committee strictly. He advocated and trotted it out in season and out of season. Even some changes of a minor nature, which were suggested, were opposed by him on the sole ground that it was not proposed by the Select Committee. But some amendments were proposed by him at the third reading stage and he got them passed by this House yesterday. Sir, this amendment involves a question of giving relief with regard to the rate of interest accrued during the period of depression, and the period of depression was brought into existence by factors absolutely beyond the control of agriculturists' poverty. The forces were beyond his control. It was not his fault that he became incapable of discharging his obligations. According to the opinion of the Banking Enquiry Committee and the Economic Depression Enquiry Committee, normally the agriculturist in Travancore is a man of self-respect, and would not try to evade obligations. Sir, it has been recognised by the A. D. R. Committee to which the Law Member himself was a party, that the

[Mr. K. Kunjukrishna Pillai.]

agriculturist stands in need of relief. Substantial relief can be brought to him only if the rate of interest is reduced substantially during the period of depression. I refer to page 63, paragraph 2 of the Report :

"After giving the subject our most anxious and careful consideration, the committee found that they were left with no alternative but to take the view that no proposal for the relief of agricultural debt, would be adequate to meet the present situation if it did not include a reduction of the rate of interest yet remaining unpaid on past transactions, during the period of the depression."

That is the opinion that has been recorded by an expert Committee specially appointed for the purpose of investigating this problem. It may be said that that reduction was to be given only to those who pay down cash. It is not the fault of this House nor is it the fault of any of us that provisions enabling that has not been made in the Bill. As a matter of fact the Bill has not made provisions for many of the ameliorative recommendations made with the best of intentions by the A. D. R. Committee. Now, the Law Member goes to move this amendment forgetting the whole history behind the investigation, the whole evidence collected by the Committee and the conclusions reached by them. These recommendations had the unqualified support of the Law Member as an individual member of the Committee.

Sir, there is no reason why this House should be influenced by the suggestion that the Select Committee did not incorporate the amendment that the House incorporated during the second reading. This House had to reconsider the recommendations of the Select Committee and as a result of deliberations came to definite conclusions. This provision was passed by a majority and was then incorporated into this Bill. This is the only amendment which is going to give substantial relief to the agriculturist.

PRESIDENT: Will the Honourable Member take some time?

MR. K. KUNJUKRISHNA PILLAI (Quilon I): I may.

PRESIDENT: Now the House will adjourn to meet again at 2.

The House adjourned at 1 P. M. and met again at 2 P. M. with the President in the Chair.

MR. K. KUNJUKRISHNA PILLAI (Quilon I): Sir, the question is whether the agriculturists stand in need of relief. Even the Law Member admits that he stands in need of relief. His only argument was that even without the provision for the reduction of interest from 1105, there is ample provision in the Bill to give him substantial relief. But the Committee which went into the question and weighed evidence came to a different conclusion. The Committee said nothing short of a substantial reduction of interest during the period of depression will be an adequate relief to the agriculturists. We know that the Committee consisted not merely of hair-splitting lawyers but of economists and experts and representatives of all interests. Whatever that be, let us consider this. There is after all no substantial relief in the Bill if this amendment is not passed and relief given with regard to the accruing interest during the period of depression, that is, from 1929 downwards.

We found now how this question has been answered by the Law Member. He says there is the Conciliation Board. Sir, the provision of conciliation in this Bill is purely optional and it can become effective only if the creditors and debtors come to an agreement. If one small creditor stands up and says "no, I am not willing to stand by the decision of the Conciliation Officer", the whole conciliation fails. Then of course, it is said that there is the power of issuing a certificate which will be considered by the court. But how far will that be helpful? I think the agriculturists know the attitude which courts now take regarding the conditions of the agriculturists. We were not supplied with the memorandum of the High Court, although it is said that it is laid on the table. It should have been supplied sufficiently early for us to enable us to study it carefully. At any rate, it has not been possible. So, we do not know what valuable arguments the High Court has advanced; whether it is in favour of the retrospective effect or not, I am not at present able to understand. Quotations taken from here and there would not, I believe, guide the House so long as they are not in possession of the whole of the arguments set out by the High Court in their memorandum. According to me, the criticism that the definition of agriculturists in the Bill is all comprehensive and that it includes all kinds of debtors and creditors and that there is no restriction with regard to them, should not be allowed to be put both ways. When the question of this Conciliation Board was raised the Law Member used the very same argument to support his position that the Bill is designed in a manner that will be comprehensive and is going to relieve the agriculturists. Now he says that because this will include all kinds of debtors including also the big debtors, whom everybody looks upon with an eye of envy, he says that this relief should not be given. This is not fair argument. I doubt whether it is fair to create a serious split between classes. All sorts of arguments are conjured up in despair.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): The word that I used was 'rich debtor' and not 'big debtor'!

MR. K. KUNJUKRISHNA PILLAI (*Quilon I*): I feel sure that the Law Member meant a particular class of people to whom I am referring. If that is what he means, I cannot understand the distinction. Everybody in this country knows whom he refers to by saying the rich debtor. I mean he refers to the rich planters of Kanjirapally and the speculators of Kuttanad. I say that this House should not be guided away by this and that this should not be the logic for winning the votes for his amendment. An amendment has to be voted upon by this House purely upon its merits. It is not fair, nor is it just for the Law Member representing Government to put forward such arguments to raise animosities to catch a victory by a member's vote.

Sir, with regard to the British Indian legislation he said that, in British India, there are not very many provisions which are more advantageous than the provisions contained in this Bill. Even with regard to the conciliation, we find that in Madras if the majority of

[Mr. K. Kunjukrishna Pillai]

creditors agree to the decision of the Conciliation Officer they take effect as a decree. There is no provision like that here so that the effect of conciliation as such is problematic. Every creditor has to agree to the decision of the Conciliation Officer if the Conciliation Officer's decision is to take effect. This is an impossibility. At any rate it will be a very rare phenomenon. There may be one person who says that he is not going to agree to that. He can do that by the indirect inducement from other creditors. Then the whole conciliation proceedings could be stopped. Of course they issue the certificate. Only the man with ten or twelve rupees debt who is put up as the obstructor will come in for the penalty. Then the whole purpose and work of conciliation can be nullified and after all it will be found in practice that the work of conciliation is not going to bring substantial relief. I am prepared to say that these are extraordinary measures intended to meet an extraordinary situation. And I cannot be bluffed by saying that this is rather expropriatory and illegal. In Europe even in countries that have not turned socialist, they have taken much stronger measures than this for debt relief. Recently the very same piece of legislation was adopted in Manitoba against which a comment appeared in the editorial columns of "the Hindu" which the learned Law Member may use to controvert me by quoting as an authority. It was a right policy and it was the necessary policy of a Government to put the agriculturist on his feet and to protect him because he is the basis of society which supports a well constituted Government. That fact has been admitted ever so many times by eminent men in all countries and that fact has been admitted by the authors of the Agricultural Debt Redemption Committee. The Law Member asks us to take off our hearts and consider this question with the aid of the intellect only. It is impossible, neither is it desirable. It was not possible for the A. D. R. Committee to keep away their heart and consider this question with their brains only. It is impossible to look at it from an intellectual point of view only. The whole weakness of the argument of the Law Member lies there. Sir, I feel confident that this House will not view this from the point of view of a pettifogging lawyer. I do not believe that they will view contractual obligations with a cruel mentality. The whole problem has to be looked from the point of view of a statesman. The Legislature has to decide this question with the far sighted vision of a statesman.

Then it is said, as it has been said very often, nay *ad nauseam*, from every part of the country wherever such legislation had been introduced, that credit would be destroyed. It is a ground that will not bamboozle this House, because they are very much accustomed to this cry. What is credit? Credit is the capacity to meet obligations. If the agriculturist should have credit, he must be enabled to meet his obligations. He must be put on his feet. That is why Government are introducing these relief measures, and trying to ameliorate his condition. It is to resuscitate his credit.

The Madras Debt Relief Commissioner has stated that such people, for whom the Law Member poured forth his sympathy, are doomed for ever, and they cannot be rescued. The ameliorative measures are intended for the protection of debtors who happened to be debtors for no fault of theirs, but on account of the phenomenal fall in the commodity prices and who may recover if some help is given. They must be helped. They ask you, "how are you going to help us"? Will you give us a short respite, an opportunity to find the money? The bright hopes of the agriculturists have been ruined on account of the fall in prices on account of the general economic depression. Nobody can be held responsible for that. Why should you not sympathise with them? I cannot understand it if you say that it was due to the fault of the rich agriculturists that he became unable to meet the obligations.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Even in that case should he not be put on his feet?

MR. K. KUNJUKRISHNA PILLAI (*Quilon I*): By all means do that if you can. But let that not be an argument against those who deserve help and who with a little help that the State can afford to give will revive and prosper, and will be a useful member of society. They must be helped. Then what are these legal obligations? Are they the ten commandments I ask?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): The principle is the ability of the debtor to pay his debt.

MR. K. KUNJUKRISHNA PILLAI (*Quilon I*): Civilised States have come to the conclusion that such reliefs are necessary. Even in India many Provinces and States took action long before the Law Member came forward with this legislation. The Law Member says that in those parts usurious interest was levied, and so that may be justified. There is no such thing in Travancore because there was the restriction of 12 per cent interest. But as a matter of fact, banks and chitties and various other bodies do collect more than 12 per cent. This fact has been found, and has been recorded by the Banking Enquiry Committee. You cannot get out of that.

There is no use trying to dispute it at this late stage. These are arguments which I am sure will not weigh with the House in changing a decision which has been arrived at by an overwhelming majority. Sir, this is the only provision in the Bill which will benefit every one of the debtors. It has been conceded by Mr. Asan, who supported the Law Member, that in Travancore no distinction can be drawn between creditors and debtors—every one is a debtor and every one is a creditor—, that no distinction could be drawn between agriculturists and non-agriculturists. That shows, Sir, that every one in the country has been hit by the fall in the prices of commodities, and therefore stands in need of relief. And, as I said, this is the only provision which will bring relief to every section of the people.

The argument has been advanced by the Law Member that there have been memorials and deputations from the creditors, and that they

Mr. K. Kunjukrishna Pillai.]

would not have agitated like that unless they had a real grievance. Sir, if that argument can be advanced in support of the amendment, it can be said with equal force that the moment the agriculturists heard the rumour that the Government had an idea of not pushing through the Bill as it is, immediately they also sent letters and telegrams, and waited in deputation upon the Government. They too did all that lay in their power. So, Sir, deputations and representations cancel each other. I do not think the House need be guided by the kind of paper used by one party or the other. The bankers might have printed their memorandum on very good paper. The agriculturist debtors might have typewritten theirs on cheap paper. The House will not be guided by these considerations. But that cannot affect the validity of the arguments advanced. We should not be guided by such superficial things. Let us consider the questions on its merits.

I know, Sir, there is a fear in the mind of some members of this House that unless this amendment of the Law Member is accepted, the Government may drop this Bill. There is a feeling like that, so that I fear that, irrespective of the merits of the question, some members may fall into this net and vote for the amendment. For a moment I do not believe that the Government will throw out the Bill merely because we throw out this amendment. We know our duty. We have considered this question. It was fully discussed on the last occasion itself. No new argument has now been brought forward in support of the position taken up by the Law Member. Therefore if we go back upon our decision and now support the Law Member's amendment, we would be committing two blunders. On the one hand, we would be deciding the issue against our conviction; and on the other hand, since the Law Member has not now added any new argument, we would be admitting that on the last occasion we did not consider the question properly.

Sir, if the Government really feel very strongly that the provision that we have passed must be changed, they have got the power to do it themselves. Why should we do it? I am sure the Government will not wreck the Bill on the ground that we do not accept the Law Member's amendment; because, as I said, they have ample powers to make any amendment they like. Under Section 27, I think, of the Regulation, they have got the power to do it. Therefore the Government will never wreck this Bill. I am emboldened to say that. They will not do it.

The issue has, therefore, to be decided purely on its merits. If the Law Member has brought in any new convincing arguments to make us change our decision, well and good; we can vote for the amendment. But, I have not found a single argument in his speech which would justify our changing our former decision. Nothing new has been said or done. I therefore hope that the House will vote down all these amendments and stick to its original stand.

MR. T. P. VELAYUDHAN PILLAI (*Tiruvalla III*): I support the amendment moved by the learned Law Member, and oppose the amendment moved by the honourable member Mr. Sambasiva Aiyar. In doing so I have three arguments in support of my position.

As it is, the provision now sought to be amended by the Law Member is inconsistent with Clause 19 of the Bill. That Clause contains very effective provisions to make the parties that appear before the Board, wherever such Boards are to be established, accept the decision of the Board. I am of the opinion that, if the Law Member's amendment is not accepted, there will be no obligation on the part of the parties to accept the decision of the Board. That is one reason why we should accept the Law Member's amendment. If not nobody will be willing and prepared to face the Debt Conciliation Boards through which the main source of relief is sought to be conferred on the agriculturist debtors in the State.

In the second place, Clause 34 of the Bill will be a dead letter so far as the period between the 1st Chingam 1105 up to the end of Kanni 1112 is concerned, unless the Law Member's present amendment is accepted. Under the law now in force, no creditor will be entitled to recover interest amounting to more than half of the principal. Now the interest due from 1108 Tulam till the date on which this Bill becomes law will alone be taken into account for the purpose of finding out whether it amounts to half of the principal or more and for this period alone the interest at 12 per cent. will amount to one half of the principal. That is why I say that Clause 34 will be a dead letter. I find no necessity to keep in the Statute Book a provision which is in part a dead letter in its operation.

My third point is this. As a matter of fact most of our Joint Stock Banks are being run at present with the money deposited with them by others and such deposits carry interest at the rate ranging from 9 per cent to 12 per cent per annum. The banks are therefore debtors to the depositors so far as the total amount of deposit is concerned. The provisions of this Bill will not help the banks so long as they are made inapplicable to all except the agricultural debtors. They have to pay interest at 9 per cent. or more. On the other hand the parties to whom they have lent money will, under the provision now sought to be amended, be bound to pay them only at 6 per cent. even from 1-1-1105. Therefore, the whole of the banking business in the State will be paralysed if the present amendment of the Law Member is not accepted, I therefore support it. I fully endorse all grounds mentioned by the honourable Law Member in support of his motion.

MR. CHANGANACHERY K. PARAMESVARAN PILLAI (*Kunnattur cum Pattanapuram*): As one of the movers of the amendment which is now sought to be cancelled or set aside, I wish to say a few words on this matter. At the very outset, let me say that I oppose both the amendments, the one proposed by the Law Member as well as the one by my friend Mr. Sambasiva Aiyar.

[Changanachery K. Paramesvaran Pillai.]

In my opinion, the Law Member has adopted a very curious, an extraordinary, procedure in coming to this House with this amendment asking this House to review a decision which it reached after due deliberation. To me it appears, Sir, that, that attitude on the part of the Law Member, is based on one of two assumptions, namely, either that the House does not reflect public opinion properly or that the Bill was rushed through hastily. I contend that neither of these assumptions is justified.

Assuming for a moment, that both these assumptions are justified, what is the proper procedure to be adopted? One can understand the present course of action if, as it was till recently, our Legislature consisted of only one Chamber. But now, fortunately, we have two Houses. There is the Upper House to correct the errors, if any, of this House.

Even for a review, Sir, there must be some new argument or fact which had been lost sight of on the former occasion. I ask, has the Law Member been able to place before the House a single new argument or fact. So far as I could see, there was nothing but a reiteration of his stock arguments.

Even at the start, the Law Member began with contradictory statements. He said that the provision involved refunding of interest already paid and was therefore unfair and unjust. When he said this one member interjected that the provision did not contemplate any such thing. Immediately the Law Member turned round and argued that, that was still more unjust since that would involve the penalising of the debtor who had been paying promptly, and rewarding the debtor who had been unpunctual or had been dishonestly evading payment. These positions are inconsistent. I submit again that to say that non-payment of interest is in all cases due to dishonesty or a desire to evade payment is hardly true or just to the debtor, I do not deny that there may be such cases also. But that cannot be said to be the rule. Generally speaking it is sheer inability and not unwillingness or dishonesty that is the cause of non-payment.

The next argument of the Law Member is, that the Clause is expropriatory. This argument was dwelt upon by him for more than half an hour on the last occasion. The only change in the argument on this occasion was that he did not qualify it with the words 'unrepentant' and 'unabashed' as he did on the former occasion. It appears to me that this word 'expropriation' has been used in order to overawe the members of this House. This is an expression which can be understood only by lawyers. As most of the members of this House are not lawyers, probably the Law Member thinks that by using this word, which cannot even be easily pronounced, he can overawe the members of this House. Now, Sir, speaking of expropriation, I should say that every Section in this legislation is expropriatory in one sense. Conciliation itself involves a very large amount of expropriation. It may be said that conciliation is voluntary and is effected with the consent of the creditor. But it has to be remembered that the Conciliation Board has the

power of giving a certificate in case of disagreement. If a certificate is given, then there are sanctions provided in the Bill against recalcitrant creditors. The court can refuse to decree costs to such creditors and also reduce the rate of interest to 4 per cent. from 1105 to the date of the decree. Therefore it is compulsory expropriation. Adding one more piece of expropriation, to the several cases allowed by the Law Member, will not I think, do much harm. But I do not think that it is expropriation. We are not taking away anything from people who have morally earned it. Sir, we are not here to administer law. We are here to legislate. We are therefore entitled to consider whether a debtor who fails to obtain sufficient profits out of the investments he made, so as to be able to pay more than six per cent. interest is not entitled to claim a reduction in the rate. If the investment does not bring insufficient profits, then I submit the money-lenders have not morally earned the interest. If they have not morally earned it, then there is nothing immoral in asking them to forego a part of the interest. It is then said that credit will be destroyed. This is also an argument which was repeated *ad nauseum* on the last occasion. Now, Sir, if the credit of the country is ever destroyed, it will not be on account of this provision which relates to past interest only, but to the other provision which has already received the blessing of the Law Member and this House, *viz.*, that future interest shall only be claimable at 6 per cent. What is it that has been provided for, in respect of past interest from 1105? All that has been said is that the Legislature might interfere and reduce the rate of interest, to 6 per cent. in respect of past debt. The amendment does not involve future transactions at all. On the other hand, the Section as it stands says that, so far as interest from the date of commencement of this Regulation and for three years subsequent to that is concerned, no interest shall be levied at a rate higher than six per cent. That is the provision which, if at all, affects the credit of the country because that relates to future transactions. But the present provision will only relate to past interest which cannot in any way affect the future credit of the country.

Again the people who are affected by this legislation put forward the interest of the opposite side and not their own as the reason for the amendment. They are more anxious to safeguard the credit of the agriculturist than their own selfish interest. This is sheer hypocrisy. The other day, at a meeting of the Educational Advisory Committee, we heard a similar argument. The question was whether fee concession should be allowed to those depressed class pupils who have failed in an examination. It was contended, not in the interests of the Government exchequer but in the interests of the depressed classes themselves, that that this concession should not be allowed as that would encourage idle men among the pupils. I think that that is an argument which is not likely to be accepted by any reasonable people.

MR. A. THANU PILLAI (*Trivandrum—Rural*): May I know from the member whether that argument in the Educational Advisory Board succeeded or not?

MR. CHANGANACHERY K. PARAMESVARAN PILLAI (*Kunnatur cum Pattanapuram*): Yes. That is the trouble.

It is said that capitalists will leave the country and the agriculturists will suffer for want of capital. In Bhavanagar and other countries money-lenders are a professional class who can easily migrate from one country to another. Can we say the same thing of our country? It has been stated, over and over again, by the Law Member himself that the creditors in this country are not professional money-lenders, but agriculturists. The majority of the creditors are agriculturists themselves who have some spare money to lend to neighbouring agriculturists. If that is so, what are the agriculturist money-lenders going to do with their money? Are they going to migrate to the neighbouring British Districts? They are usually shy of investing money in property in their neighbouring village. Is it likely then that they would migrate to Madura or Tinnevely with the small amount of capital at their disposal? I do not think that this argument about loss of credit has any force at all.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirhar Vakil*): One question. Should not a distinction be made between an agriculturist who is able to pay his debts and another who is unable to pay his debts?

MR. CHANGANACHERY K. PARAMESVARAN PILLAI (*Kunnatur cum Pattanapuram*): No. It is not expedient. The expression that "a man is able to pay his debt" is a very vague one. It may be that a man may have sufficient property by selling which he will be able to pay his debts. But I ask the question why should he be thus compelled to sell his property. If the relief is necessitated by circumstances which are not in his control, he is just as much entitled to relief as any other person.

Again it has been said, relief was given in other countries, because usury existed in those countries. Usury is a comparative term. What is usury in one country may not be so in Travancore. In Travancore where the law prohibits the awarding of interest at a higher rate than 12 per cent. it would be usury to claim anything more. But in British India and other states it may be different. There is no law in those countries restricting the rate of interest. But our agriculturists are very poor. So far as I have been able to study the conditions in this country, our agriculturists are very much poorer than in other countries. The standard of living is very much lower and in every way our condition is very much worse than the condition elsewhere. Therefore our agriculturists will not be able to pay as high a rate of interest as the people in other parts.

Another argument advanced by the learned Law Member was that the banks in many cases have taken deposits at a higher rate of interest and therefore they will lose that interest. This statement cannot be accepted without proof even though it comes from the Law Member. I challenge this statement and affirm that, to my knowledge, the banks have not been paying interest at a rate higher than 6 per cent. In some cases they have been only paying even less.

Even assuming that the bankers have paid interest or dividend at a higher rate than 6 per cent., I may say that the Banking Enquiry Committee as well as the Agricultural Debt Redemption Committee, after careful enquiry, have come to the conclusion that the money-lenders have been receiving a higher rate of interest, 25 to 30 per cent., and even 50 per cent. in some cases, during the years of prosperity. We are now asking them only to disgorge a small portion of the illegal gains which they made during years of prosperity to save the poor agriculturists from ruin during this period of depression and low prices. This is but justice.

MR. A. S. DAMODARAN ASAN (*Mavelikara*): May I ask the member whether it is only such persons who have received 30 per cent. interest are now asked to discard interest?

MR. CHANGANACHERY K. PARAMESVARAN PILLAI (*Kunnattur cum Pattanapuram*): Yes.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Does not this statement require proof?

MR. CHANGANACHERY K. PARAMESVARAN PILLAI (*Kunnattur cum Pattanapuram*): Yes. I have already referred to the Report of the Banking Enquiry Committee in proof of this statement. I have quoted the relevant passage from the report in my speech on the last occasion and I would refer the Law Member to that. The Enquiry Committees have unhesitatingly come to the conclusion after due enquiry and after taking evidence that the interest which these money lenders and bankers have received, has come to even 50 per cent. at times.

MR. A. S. DAMODARAN ASAN (*Mavelikara*): May I know whether it is the case with all the bankers or with some bankers that the report refers to?

MR. CHANGANACHERY K. PARAMESVARAN PILLAI (*Kunnattur cum Pattanapuram*): It is so generally. The member may refer to the Report.

MR. T. P. VELAYUDHAN PILLAI (*Tiruvalla III*): May I ask one question?

PRESIDENT: Instead of allowing such questions to be asked, is it not far better to allow the speaker to finish his remarks?

MR. CHANGANACHERY K. PARAMESVARAN PILLAI (*Kunnattur cum Pattanapuram*): These are the arguments of the Law Member, in support of the amendment which he proposes to move, and I have dealt with them. I have submitted that none of them is new to this House. The only new fact, urged in support of this amendment, not in this House but outside, is that prices of agricultural products have improved. That is a statement made before the Dewan by the members of the deputation who waited on him to represent the cause of the bankers and money-lenders. They say that the prices of cocoanut and rubber have improved and there is no need therefore to give further relief to agriculturists. With regard to rubber what I have to say is that this argument is entirely irrelevant so far as the present amendment is concerned. We are not now dealing with the ability of the agriculturists to pay higher

[Mr. Changanachery K. Faramesvaran Pillai]

rate of interest to-day or in future. Nobody can deny the fact that the years between 1105 and 1110 were years of depression, during which the prices of agricultural products were admittedly very low. It is at that time great difficulty was felt by the agriculturists for payment of interest. The improvement in prices to-day does not enable the agriculturists to pay a high rate of interest in the past. Now let us examine the argument on its merits. It is true that, in regard to cocoanuts, the prices have registered a slight increase but this improvement has not benefited the cocoanut planters because owing to bad seasons and the inability of the agriculturists to manure cocoanut trees, the yield from cocoanut gardens have fallen by more than 50 per cent. In proof of this, I would invite the attention of the house to a few sentences from the address delivered by Mr. Pollard as Chairman of the Annual General Meeting of the Travancore Chamber of Commerce held in December 1935. He says -

"Doubtless the prices of cocoanuts have registered a marked improvement this year, but owing to unfavourable seasons and the inability of the cocoanut cultivator to give greater attention to the palms the yield has diminished considerably which is seen reflected in the fall in the exports of copra and cocoanut oil. If, with the prices, production also had improved, the cultivator would have been benefited. That unfortunately is not the case. I give below the figures for exports of cocoanut oil.

	1934/35	1935/36	Decrease per cent.
Cwts.	366,763	153,804	58.1

By the improvement in the prices of rubber, to some extent, the rubber planters have been benefited. There again, I cannot say, that they have been benefited to the same extent as is ordinarily supposed. To appreciate this statement, it is necessary to understand the nature of the restriction scheme. Under this, each producing country is allowed an exportable quota which is generally a certain percentage of the production in that country. The total production is estimated by an expert body and what is known as basic quota is fixed for each country and the percentage allowed to be exported is called the exportable quota. For the latter, a license is issued by the Committee, and rubber can be exported only under this license. The basic quota was determined on the basis of such accounts. The native planters unfortunately had no audited accounts. The determination of the quota in their case was made by an officer and he fixed it actually at 50 per cent of the yield. It was only a rough calculation. We are not therefore able to export more than 25 per cent of our actual production. Again 60 per cent of rubber plantation belong to the Europeans and the rest only to non-Europeans. That is the position of rubber. This is the only new fact alleged by the bankers in support of the amendment under consideration. There is absolutely no justification, therefore, in asking this Assembly, to reconsider its decision that was arrived at after due deliberation. With these words I oppose the amendment moved by the Law Member.

MR. T. P. VELAYUDHAN PILLAI (*Tiruvalla III*): Have not the Agricultural Debt Redemption Committee recommended a preferential treatment being granted in regard to rubber?

PRESIDENT: I disallow that question.

SADASYA TILAKA T. K. VELU PILLAI (*Trivandrum-Urban*): The House has been listening to a good deal of eloquence on both sides in respect of this amendment. My friend, Mr. Kunjukrishna Pillai told the House not to be influenced by considerations of what the Government might do with regard to this Bill. I am glad, Sir, that he said so; but for a different reason. I consider the possibility of Government doing this or that, entirely irrelevant to our discussion on this matter before the House, so that I do not take into consideration the fact that Government is going to do anything at all against what we are attempting to do. (*Hear, hear*) What the Government will do later on, is a point that should concern ourselves only if any discussion becomes necessary hereafter, a contingency which I for one do not apprehend.

I may assure my friend who made an appeal to the heart that I am talking on this motion in entire possession of my heart, but a heart controlled by the head. There is absolutely no necessity why a man should brave such a volume of public opinion unless he feels that it is his duty to put before the House certain aspects which occur to his mind. Now, Sir, guided by that sense of sacred responsibility, I am proceeding to offer a few remarks.

My friend, Mr. Changanachery Paramesvaran Pillai, asked the House why we should review a decision which has already been passed. My argument is this. There are two reasons, and according to me, two important reasons. I claim that I am not a "hair-splitting and pettifogging lawyer". As a lawyer but without forgetting economics, politics and such like things I have learned, and only taking a relevant view of the principles of economics as a lawyer, I am saying this. It is not fair to say that all lawyers are hair-splitting and pettifogging. Sir, I claim that the greatest statesmen all over the country were often lawyers.

MR. PACODE A. NARAYANA PILLAI (*Vilavankod*): May I know whether the member opposes or supports the amendment?

SADASYA TILAKA T. K. VELU PILLAI (*Trivandrum-Urban*): I am very sorry that my friend Mr. Pacode A. Narayana Pillai, who certainly knows things very well, is not in a position to understand this simple matter. Is it the position that I should categorically say that I support or oppose the motion? I may tell him that in order to help the play of his intelligence on this question that I am supporting the amendment.

Two reasons I wish to detail. Mr. T. P. Velayudhan Pillai, who made a very short speech, one which was impressive and convincing in its brevity. Some time ago, this House had to throw out a measure because a Bill which was passed in 1111 had the year 1110 in its title. Let us keep that and the reasons for that in our minds. The

[Sadasya Tilaka T. K. Velu Pillai.]

year 1105 is an important epoch in the history of this Bill. I understand the argument of Mr. Velayudhan Pillai to be this. If a certain sum of money is invested at interest, the interest in 50 months at 12 per cent, will amount to half the principal. According to the Clause of the Bill with which we are now concerned it is only 6% maximum which can be given. So if a person contracted a debt in 1104, by 1108 the interest will so accrue that it would amount to half the principal. According to the law, as now incorporated, in the Civil Procedure Code, a court will allow interest amounting only to half of the principal.

MR. PACODE A. NARAYANA PILLAI (*Vilavankod*): Is the hon'ble member aware that parties, in order to avoid this law of interest accumulating to half the principal, very often renew their contract and start with a fresh contract?

SADASYA TILAKA T. K. VELU PILLAI (*Trivandrum-Urban*): That is a point I am prepared to answer. That makes my position stronger for, if interest is calculated and every year a renewal is effected and we are asked to go back upon those documents, that will mean the loss of the rights of property. While we are helping them only with regard to the interest for a certain period, say for four years, we take the credit for giving that protection for a longer period. That is wrong. That is neither straight nor honest. We are a responsible body and we should not proclaim things which have no substance.

The second reason is also equally important, and still more important, because it was Mr. Changanachery Paramesvaran Pillai who proposed this amendment on the last occasion. If it were any other member, probably I would not have emphasised it to the degree that I am going to do.

MR. E. V. KRISHNA PILLAI (*Pattanamittla*): May I know why?

SADASYA TILAKA T. K. VELU PILLAI (*Trivandrum-Urban*): If I am to give my opinion on this point at every stage.....

PRESIDENT: The hon'ble member will continue.

MR. E. V. KRISHNA-PILLAI (*Pattanamittla*): Sir, I rise to a point of order. The member has been paying compliments and appreciation in such a high measure.

PRESIDENT: Paying of compliments is not a point of order.

SADASYA TILAKA T. K. VELU PILLAI (*Trivandrum—Urban*): Without answering that question, permit me to say, that I am prepared to make this statement that the amendment which was passed in the last session was moved by one who has got considerable knowledge of the country, one who has got considerable judicial experience as a Judge, and that after having bestowed considerable thought to all aspects, in this responsible Assembly, he had moved this amendment.

MR. K. KUNJUKRISHNA PILLAI (*Quilon I*): May I correct the member? This amendment was moved by me.

SADASYA TILAKA T. K. VELU PILLAI (*Trivandrum—Urban*): I do not mean any disrespect to anybody. But the records will show that Mr. Changanachery Paramesvaran Pillai's name was in the agenda as the mover of the amendment.

PRESIDENT: The hon'ble member will go on with discussing the amendment.

SADASYA TILAKA T. K. VELU PILLAI (*Trivandrum—Urban*): I am concerned with the present amendment only. I am very thankful to the Chair. On page 172 of the Report of the Agricultural Debt Redemption Committee it is said:—

“The evidence of disinterested witnesses like Messrs. Changanachery Paramesvaran Pillai, B. A. and B. L., K. G. Sessa Aiyar, B. A. and B. L., retired High Court Judges and Mr. Pattom A. Thanu Pillai B. A. and B. L., High Court Vakil shows that the object of legislation should be to exclude relief to the improvident debtors and grant relief, if any, to debts incurred purely for purposes of cultivation as distinguished from capital and speculative investments—”

MR. K. KUNJUKRISHNA PILLAI (*Quilon I*): May I know whether...

PRESIDENT: I must say that interpellations should be avoided unless they arise by way of correction of an obvious mistake or anything like that.

MR. K. KUNJUKRISHNA PILLAI (*Quilon I*): Sir, I was going to ask whether a member who changes his opinion from the last session to this session can question the right of other members to change their views.

PRESIDENT: That question is a psychological problem and not really a point of order nor is it a legitimate criticism of the hon'ble member who is now on his legs.

The hon'ble member will proceed.

SADASYA TILAKA T. K. VELU PILLAI (*Trivandrum—Urban*): I had to deeply ponder over this subject because a review is always a difficult process. But discovery of new and important matter is very important so far as the credit of a country is concerned. I am prepared to accept the position that, like other people, I may change my opinion as more light is brought to bear upon these questions. Therefore anybody who changes his opinion on proper grounds must deserve congratulations. (*Hear, hear*). I am at the amendment, Sir. The agriculturist requires protection. He has been always unfortunate in the history of the world. Even if he clears his debt one year he is obliged to borrow next year. I was saying that the agriculturists must always depend upon the facilities for getting credit. The root ideas of credit were analysed by Mr. Kunjukrishna Pillai. Credit, I take it, is to enable persons to borrow at reasonable rate of interest. And unless the creditor feels that there is no extra-hazardous risk and unless the money is secured properly, he will not advance it as a loan. There is one other extract which I would like to quote. That Travancore is a poor country, is a position which I accept. That the Travancore agriculturists require help is a contention to which I will whole-heartedly

[Sadasiya Tilaka T. K. Velu Pillai.]

subscribe. But in order that they may get money, in order that credit may be available to them for cultivating their lands, I say that persons who deny.....

MR. K. R. ELENKATH (*Kalkulam I*): May I know the document the member is referring to?

SADASYA TILAKA T. K. VELU PILLAI (*Trivandrum Urban*): It is from the Travancore Banking Enquiry Committee Report. On page 54 paragraph 68, it is stated:

	Number of loans.	Amount Rs.
Joint Stock Bank	2,467	15,63,994
Co-operative societies	1,709	5,60,178
Money-lenders	50,986	1,52,71,138
Government Agricultural loans	280	1,50,015

It is a patent fact that every agriculturist is a lender and also a borrower. There are banks functioning well. Mr. Kamath raised an important point. Travancore is not an isolated plot of land. Now, on account of the facilities afforded people can come and invest their money here. We can also go outside to invest our money. It is practically open to us to take advantage of every thing that goes on in the outside world. When the Government were obliged to borrow, outsiders lent money. Now we should not create the impression to the outside world that our security is in a haphazard condition. People in Alleppey, Cochin, Nagercoil and other places cannot get on. They cannot get on with their agriculture unless they borrow money on reasonable terms. While I maintain that the agriculturist is entitled to help, I do maintain that distribution is as important as production. I do not want to take more of the time of the Assembly by quoting passages. Even the Agricultural Debt Redemption Committee has arrived at the conclusion that the traders are as much indebted as the agriculturists. If it was a general law that all debtors should get relief, the position would have been different. I take the view that the help that the agriculturists require is not such help as is now intended to be given to them. That would not only prevent borrowing but will also help dishonesty and fraud. If there is a bad creditor and a helpless debtor, what will be done is to make him renew the agreement. A prudent creditor, on the other hand, will keep quiet for a time. He will allow the interest to accumulate and then, all of a sudden, file a suit and get a decree for the whole amount. Therefore to say that a good creditor, a bad creditor, a prudent creditor all these people should be treated similarly is not quite fair. In the light of the fact which I afforded in the beginning with particular reference to the arguments of Mr. T. P. Velayudhan Pillai and with reference also to the fact given by the reports of expert committees, I have no hesitation in saying that the very scheme and frame work of the legislation will be disturbed. If all are treated in the same manner, why should anybody go to a Conciliation Board.

The agriculturist is entitled to get the relief he wants by the provisions in the Bill. So in the larger interest of our reputation and the security of the State, especially in economic matters, I am justified in supporting the amendment.

MR. P. C. KURIYAN (*Kottayam I*): Sir, in supporting the amendment, I may say that Mr. T. K. Velu Pillai has given me the lead in changing my opinion. Mr. T. K. Velu Pillai has expounded the theory that the sanctity of contract can never be securely kept. In the civilised countries of Europe almost all the Nations have violated the sanctity of contract and treaties.

SADASYA TILAKA T. K. VELU PILLAI (*Trivandrum-Urban*): I certainly maintain even to-day that there is no security in the sanctity of contract.

MR. P. C. KURIYAN (*Kottayam I*): Sir, I am a young man who has come to the Assembly for the first time and naturally I was carried away by the precious arguments of our Deputy President. I find it difficult to make up my mind one way or other on a matter on which seniors like Mr. Changanachery and Mr. Velu Pillai changed views so often.

PRESIDENT: Elaborate explanations for changing one's mind are not needed. Has the honourable member finished?

MR. P. C. KURIYAN (*Kottayam I*): Sir, I have not got anything more to say (*Laughter*).

MR. N. E. VARUGHESE (*Tiruvalla I*): Sir, I rise to oppose the amendment. I look at this question firstly as an agriculturist, secondly as a villager, and lastly as a Travancorean. Sir, this question has been threshed out at the time of the second reading of the Bill. Deliberately we came to the conclusion that retrospective effect should be given in the calculation of interest and that it should be incorporated in the Bill. Now after hearing the arguments of the learned Law Member I am not the least inclined to change my position which I adopted and as one who moved for such an amendment in the Bill before us I still maintain my position. Sir, much had been talked on the sanctity of contract and such other things. We read and we know how contracts and agreements are treated in western countries from where we have more or less studied our principles of law. May I remind the Law Member that he has got a Bill, *viz.*, the Rubber Control Bill which is likely to come up for second reading in this House? What sort of a law is the Rubber Restriction Law? Sir, every proprietor has a right to cultivate anything he likes in his land. Has he that freedom under that law? Except my friend Mr. S. J. Nair, all honourable members of the select committee have strongly recommended the adoption of the Bill without the alteration of a single letter. So what I say is, when emergent requirement necessitates changing or adopting laws which are against common jurisprudence, it is the duty of the Legislature to accept those changes. Is it fair for the Legislature to say that a particular law is expropriatory at one time and to say that the same is not expropriatory at another time? Is it just for the Legislature to adopt

[Mr. N. E. Varughese.]

one opinion at a time and after a few minutes to say just against that opinion? Another point I like to bring to the notice of the House is that the argument advanced by the learned Law Member for deleting the provision in the Bill relating to the reduction of the rate of interest from 1105 will apply equally to the provision respecting the rate of future interest. If the principle advanced by the Law Member for deleting the portion relating to past interest is accepted, they are equally valid for deleting the provision relating to future interest. So, if the learned Law Member can incorporate a provision for reducing the future interest, equally on that very same ground, the reduction of interest from 1105 is acceptable. Sir, this extraordinary measure is dependant on extraordinary circumstances. Ordinary rules of jurisprudence, ordinary laws of contract, are not generally to be applied in cases like this. It is admitted on all hands that Travancore is an agricultural country. More than 80 per cent of the population are agriculturists. And now this majority of the population are in need of substantial help. I ask this House what substantial help is going to be rendered to them but for this small item of concession in this Bill. This Bill is not worth its name, *viz.*, the Travancore Agriculturists' Relief Bill, if this amendment is adopted in it (*Hear, hear*). So I appeal to the House to throw out the amendment.

MR. PACODE A. NARAYANA PILLAI (*Vilavankad*): I was anxiously following the arguments advanced by the learned Law Member when he moved this amendment to take away what has been done with regard to this matter during the second reading of the Bill. Sir, I thought I could get some fresh light justifying a change of position with regard to this matter. But I am sorry to tell you that I do not find anything in the speech of the learned Law Member which would influence the members on this side of the House to take a different view from what we took during the second reading stage. Sir, with regard to the arguments advanced in support of the amendment they have all been categorically answered by Mr. Changanachery Paramesvaran Pillai. I don't propose to cover the same ground except to touch upon one or two points. I am quite prepared to give credit to the forensic ability of the learned Law Member, but I am rather chary in giving credit to the Law Member for his knowledge of economics. The stock arguments which the learned Law Member advanced during the second reading stage as well as in the course of his speech to-day are that this is an expropriatory provision. The honourable member Mr. Changanachery Paramesvaran Pillai justified this by admitting that the provision is a bit expropriatory. I wish to say that there is absolutely no expropriation so far as this provision is concerned. Expropriation implies existence of some vested right of property. I ask honourable members of this House whether there is any property in accumulated interest. Sir, every student of economics knows that interest is only unearned increment just like the income which a rich Zemindar gets from his extensive lands by the labour of his toiling tenants. Interest is earned not by the sweat of brow.

MR. M. SIVATANU PILLAI (*Tovala*): May I know from the member whether that definition is correct?

PRESIDENT: Questions of political economy raised by Mr. Narayana Pillai need not be discussed.

MR. C. V. CHANDRASEKHARAN (*Ag. Director of Public Instruction*): May I know whether the honourable member can quote one economist in support of his view?

MR. PACODE A. NARAYANA PILLAI (*Vilavankod*): I may submit that I studied a bit of economics at the feet of my revered professor, none other than, Mr. C. V. Chandrasekharan (*Laughter*).

MR. C. V. CHANDRASEKHARAN (*Ag. Director of Public Instruction*): Sir, I disclaim entire responsibility for this.

MR. PACODE A. NARAYANA PILLAI (*Vilavankod*): My learned professor might have changed his view as the others are doing now. My position is this. I am sure that there is absolutely no question of expropriation so far as this Clause is concerned. Many eminent judges have held that the agreement to pay the interest is only subject to certain conditions prevailing at the time of the contract. When those conditions cease to exist, the parties are at liberty to take a different view altogether. That is the right view with regard to the sanctity of contract, with regard to expropriation and all those things that courts of law take. If the courts release parties from contracts solemnly entered into by them on such grounds, I ask the honourable members of this House where is the difficulty for a Legislature which is to lay down the law. The courts are to administer law. Where is the difficulty for a solemn Legislature to pass a measure, wherever the conditions prevailing require such ameliorative measures? So the argument of expropriation goes. My honourable friend, Mr. Changanachery Paramesvaran Pillai, was referring to the practice of certain class of money-lenders in Travancore realising very exorbitant rate of interest. The correctness of the statement was questioned. I have got in my hands the report of the Banking Enquiry Committee in Travancore. In paragraph 67 this is what they say:

"Except from Government and Co-operative Societies the conditions of borrowing are adverse to the ryots and in some cases even ruinous. Agricultural loans are issued at the rate of 6 per cent per annum and the Co-operative Societies lend at 10½ per cent. The Joint Stock Companies start from 12 to 15 per cent. The professional money-lenders however start with high rates of interest ranging from 18 to 50 per cent. In Nanjinad the ryots are inconvenienced by the private money-lenders who charge up to 75 per cent".

This is the recorded opinion of an expert committee. It has recorded the evidence from persons representing different interests.

MR. P. CHIDAMBARAM PILLAI (*Commerce and Industry, South*): May I know in what year the report was published.

MR. PACODE A. NARAYANA PILLAI (*Vilavankod*): I do not exactly remember the year. I believe it was some 5 or 6 years since the report was published.

[Mr. Pacode A. Narayana Pillai.]

Sir, that is the view of the Banking Enquiry Committee that went into this question some years ago. In the face of this opinion it is idle to contend that there is no case for the reduction of interest so far as agricultural debts are concerned.

Sir, another point that I would wish to bring to the notice of the honourable members of this House is this. This is not the first time that the Legislature intervenes in order to give the needed relief to the agricultural debtor. The question of the rate of interest charged on loans engaged the attention of the Travancore Legislature some hundred years ago. It was the only kind of legislation that we had in those days. I refer back to 1010 M. E. When the condition of the agriculturists was distressing, the Legislature stepped in since exorbitant rates of interests were being charged and levied by creditors. The then Legislature was not such a popular body as we have now. To-day we have got sufficient popular element in our Assembly. In those days they had their own procedure. We are bound by those laws and those laws are still in force. Sir, it is idle to contend, as I submitted a little while ago, that the Legislature has no power to interfere with this question of interest. Sir, with regard to the reduction of interest, it has been admitted by both the supporters and the opponents that relief is absolutely necessary and that relief ought to be given. Then, the only question is from what period this reduction should be made applicable. Sir, the amendment that was carried out on the floor of this House during the second reading stated that since there was an unprecedented fall of commodity prices from the beginning of the year 1105, it was an equitable relief that that should be the period during which this reduction of interest should operate. This is the *raison-d'être* of this new change. Sir, with regard to giving retrospective effect to such reduction, this is not a novel thing. I refer to Section 30 of the United Provinces Agriculturists, Relief Act that was passed in the year 1934. Section 30 of that Act gives this reduction of interest retrospective effect from the 1st January 1930. In the United Provinces the reduction is made applicable and it is to operate from 1st January 1930 though the law was actually passed in the Council in 1934. Even otherwise my submission is that this House has got ample powers.

Another misunderstanding that seems to be entertained by some people is this, that this is a piece of class legislation. Sir, this is far from the truth. It is not class legislation. Of course, all that proceeds from the assumption that we have got in Travancore two water-tight compartments, a creditor class and a debtor class. I submit that there is no such thing as many of the supporters of the amendment themselves admitted that in Travancore every person is at the same time a creditor as a well as debtor. So, who are the creditors to whom these agriculturists owe money? They are none other than the agriculturists themselves. We have two classes of agriculturists in Travancore, one with money ready in their hands to lend out and the other without

ready cash who want to rely upon their neighbours, the moneyed agriculturists, for their agricultural operations. So, by passing a measure like this, we are not discriminating, we are not legislating against one class or in favour of the other. The general benefit that will accrue from these salutary measures will be advantageous to all people, irrespective of their being debtors or creditors. So, Sir, the argument that this will work hardship on one class of people cannot hold good.

Again, there is another misconception that seems to be entertained by the learned Law Member. According to the economists what is the function of money? Money pre-eminently is only a medium of exchange. It is not property. In order to stabilise currency and in order to bring about a sort of economic equilibrium, we find that the State intervenes. Witness, Sir, the various National Recovery Acts passed by President Roosevelt of America, the farm mortgages introduced by him in order to help the agriculturists out of difficulty. In recent times, we have heard so much about the devaluation schemes in several countries. What is the object? It is to stabilise the currency. So, when there is no normal relationship between commodity and the medium of exchange that is money—when this is disturbed, the State intervenes. Sir, this measure, with this provision, is intended to restore the economic equilibrium, which has been sorely upset by the economic depression prevailing in the last six or seven years. Sir, on this ground I oppose the amendment. And before I conclude, I would refer to a passage. These are the noble words of our Gracious Highness the Maharaja contained in the memorable message sent to the members of this House on the very inauguration of the new Legislature. Sir, I refer to Volume I of the Assembly proceedings, page 5. I simply refer to one sentence in His Gracious Highness's message:—

"I feel sure that the various interests represented by election and nomination, will realise that the world is passing through a critical period, that in Travancore as elsewhere politics are but a means to an end and that and the general levelling of all standards....."

Mark these memorable words "the general levelling of all standards".

Sir, I appeal to the honourable members of this House to bear in mind the noble words of His Gracious Highness and see that this modest relief is given to the Travancore ryots.

MR. M. CHIDAMBARAM PILLAI (*Commerce and Industry, South*): Sir, I beg to support the amendment. Of course, Sir, I represent the Commerce and Industry Constituency. So many hard words were said about my constituency; I am not going to defend it. For that matter I am not aggrieved either, (*Laughter*) because words break no bones. But, Sir, attempt is now being made to drive out all commercial people from this State, and the question is being discussed on the floor of this House as to what should be done with these commercial people, whether to drown them in the Arabian Sea or to drive them out of the country, the so-called capitalists who are really poor. Sir, what I would say is that these people have got the life of a cat. Even if

[Mr. M. Chidambaram Pillai.]

you drown them, they will go to Africa and thrive there. The only result will be that we would be left without help as Robinson Crusoe was left in olden days. This House must remember that Travancore owes its material prosperity to these commercial and industrial people. Let us not forget that. The 25 lakhs of acres of land now under cultivation in Travancore, we owe to these people whom we now condemn. Sir, I am also a debtor. I also sympathise with the people who have had on some occasions to enter into transactions with the people called creditors. But, that does not mean that we should forget the very simple fact that the prosperity of our country depends on our commerce and industries. It was stated that whatever be the hardship that we may impose on these people, they will not leave the country. That is a huge blunder. As a matter of fact the apprehensions caused by this Bill have already made two well-established banks leave Travancore and establish their business outside this State. Certainly we should not allow such a thing to happen. We should give all encouragements to our capitalists, to our merchants, to our financiers.

My submission is that Clause 34 of the Bill, as it now stands, is a very dangerous provision. The Law Member was very reasonable when he wanted to change it to what it was before it was amended at the second reading.

Further, as a matter of fact, this measure is more or less an economic experiment. In matters connected with economics, each one has got his own views and opinions. No two people have hitherto agreed on any economic question whatsoever. We are now going through a very exceptional period. The circumstances also are very exceptional. But that does not mean that we should go on taking leap after leap in the dark. For an extraordinary situation, one leap in the dark may be tried; that will quite suffice. But why two or three or more? Sir, I am reminded of a story which I have heard about what happened some forty years ago.

Plague broke out in Bombay or Poona. Even here efforts were made to prevent the disease entering Travancore. A Plague Hospital under a medical officer with minor qualifications, was established at Aramboly near Nagercoil, at the South Travancore frontier. The doctor waited for three or four months; he could not find a single case of plague. One day he found two coolies working in a paddy field near-by. They had swollen legs. The doctor immediately caught hold of them and wired to the authorities here that he had come across two plague patients and asked for instructions as to whether he could take them over or send them to Trivandrum. (Laughter) The authorities here wired back saying 'please do not send them here; keep them there'. But the doctor himself was afraid lest he should contract the disease. He locked up the patients in a room and made arrangements for their being fed with bread and milk. He went about saying that

he could not do anything for them as they were untouchables. After one month the doctor was anxious to ascertain whether the two fellows were alive or not. He had the room opened and discovered that, with all the milk and bread that he had given them, they had grown stout and strong.

Sir, after all we are only trying an experiment. Therefore it is better that we proceed very slowly in this matter. If we are going to provide for the refunding of interest that has already been paid, surely, there would be absolutely no credit whatsoever in the country.

The learned Law Member put it very clearly indeed, and that was one of those points of his which were very convincing—that in this country every one was an agriculturist, and every one was also a non-agriculturist. Who is an agriculturist? Who is not an agriculturist? Who is a creditor; who is not a creditor? Who is a debtor; who is not a debtor? That is where the whole trouble starts. Sir, commercial credit is altogether different from the credit which the agriculturist usually commands. As a debtor, I would naturally be happy if I am told that I need not pay my debts at all. I would feel extremely glad. But the difficulty will be that we have got to keep things going only by means of credit. I cannot get along for twenty-four hours without having to go to somebody or other for a loan. Those who are engaged in political life know how the elections usually cost a lot of money. In one of the elections, I borrowed a large amount of money and spent it all on the election, and ultimately lost it also. (*Laughter.*) But when the money-lender comes and asks me his money back, can I tell him I have spent your money on an election which I have lost? (*Laughter.*) That will not be fair. I know I will have to stand for election again and may have to borrow money for that. The case of the businessman is not like that of the agriculturist who can say 'I do not want your money. I will quietly cultivate my land and live upon what I can get from it.' The business man cannot manage like that. If I have borrowed Rs. 1,000 at 12 per cent and if that debt is conciliated under this Bill to my advantage, naturally, when I approach the money-lender again for a loan, he will surely remind me of the old affair. I cannot say 'let us forget the past.'

The provision is therefore extremely injurious to the interests of trade, commerce and industries in the country. Anyhow, since we have mixed together trade also with agriculture, let us scale down the rate of interest; but let us not make any attempt to get back what has already been paid. That is a great hardship and will injuriously affect all the commercial interests in the country. I therefore appeal to the House to accept the amendment of the Law Member.

MR. PUTHUPALLI S. KRISHNA PILLAI (*Quilon II*): Sir, the last opportunity to speak a few words on the amendments now before the House has, so far as the non-official side is concerned, I fear, has devolved upon me, because I do not find any one else eager to speak now. I would like to remind the honourable members of this House of their

[Mr. Puthupalli S. Krishna Pillai.]

very serious responsibility in this matter. Scarcely four months have elapsed since this House, by an overwhelming majority, passed Clause 34 which is now sought to be amended. That Clause, as it is, has been the result of an amendment introduced at the second reading of this Bill. There was very heated debate at that stage. The learned Law Member himself made use of all his ingenuity and skill to see that the provision is retained as it was settled by the Select Committee. In spite of all that, it was decided to change it to what it is now. This House maintains that this was the minimum demand that the debtors would make, the minimum relief that they should get. Now, although only a few months have elapsed since then, the Law Member has come forward with an amendment asking us to go back upon our own decision. Every member of this House has got the responsibility to see that the decisions arrived at here after due deliberation, are maintained as such. It is the duty of every one of us to stand by the decision of the House. (Mr. K. Kunjukrishna Pillai: *Hear, hear.*) The opinion expressed by this House ought not to be flouted. Even now, Sir, we hear criticisms that this House is passing legislative enactments in an irresponsible manner. I am referring to the cry against the Improvements Valuation Bill. Now, if we go back upon our own decisions arrived at after due deliberation, we stand the risk of being attacked further that we did not feel our responsibility and that we did not realise fully the import of the provisions we enacted. If we are to be faithful to our own opinion, to our own decision, let us not allow this amendment to be passed.

Sir, a review lies when a new and important matter has been discovered. So far as I have been able to see and I have been able to hear from other honourable members, only two new and important things have occurred since the second reading of this Bill. One of them I discovered myself, *viz.*, the re-election of President Roosevelt.

The second thing is that there was a deputation of capitalists waiting on the Dewan. These are the two important matters, which I have been able to discover, as having transpired in the meanwhile.

PRESIDENT: The election of the President of the United States of America is not a matter before the House.

MR. PUTHUPALLI S. KRISHNA PILLAI (*Quilon II*): Sir, these are the two important matters that I have been able to see. The first does not in any way weigh with us. The second does not, and need not, weigh with us because it was in the teeth of the opposition raised by these creditors that this House came to this decision. Apart from the deputation of the capitalists which waited on the Dewan and their agitation, I submit, that there was no new matter because of which this House should reconsider this Clause. We fully discussed this matter and came to this conclusion. (Mr. A. S. Damodaran Asan: *question.*) My learned friend Mr. Damodaran Asan questions that statement.

MR. A. S. DAMODARAN ASAN (*Mavelikara*): On a point of personal explanation, Sir, I wish to say that I had no opportunity to speak on that occasion.

MR. PUTHUPALLI S. KRISHNA PILLAI (*Quilon II*): No one was denied the right of speech.

MR. A. S. DAMODARAN ASAN (*Mavelikara*): I was denied that right.

MR. PUTHUPALLI S. KRISHNA PILLAI (*Quilon II*): I am very sorry, Sir, that he was denied that right. Anyhow that was not brought to the notice of the President.

As matters stand now, I feel convinced that every argument that might have been advanced was advanced, and every fact that could be placed was placed and considered by the House. Then where is the new point on which we are to come to a decision? As pointed out by Mr. Changanachery Paramesvaran Pillai, the learned Law Member placed at that time all arguments that he has now placed before us. The Law Member is always expected to bring forward amendments on behalf of Government. I am afraid, honourable members, when advancing arguments in support of the amendments, forget one thing, and that is the basic fact on which Government proceeded. That fact was that, long after the depression commenced, which, it is accepted on all hands, commenced in 1105, various representations were made to Government that agricultural indebtedness has become so heavy that it is impossible for agriculturists to live. The representation was that the burden had become unbearable and not that the burden would become unbearable after 1112. The Committee made the following statement:

"It is admitted on all hands that the interest had mostly remained unpaid."

It was this fact, Sir, that struck the Committee, and the honourable Law Member was also convinced of the fact. It was on the basis of this that the Committee made its recommendations. The point was that the accumulated arrears of interest had become unbearable. So they recommended that the interest might be reduced from 1105. It was not contemplated by any member of the Committee that the burden of the agriculturist will become unbearable from 1112 or for three years after 1112. That was not the position taken by the Committee. If that was the position of the Committee, I humbly submit that they would not have submitted this recommendation.

The Committee wanted to lighten the burden of interest which existed at the time the report was drafted and which continues to exist even to-day.

The Law Member advanced the argument that there are hundreds of dishonest debtors who do not want to pay interest. He asked, whether we are to legislate and protect them. I wonder where the learned Law Member had this information from. Is this an argument which will be accepted by the House which knows something about the position in the country? Is there a sufficient number of honest debtors who are unable to pay interest? I admit that there may be a few dishonest debtors who may be able to pay. This is the stock argument which

[Mr. Puthupalli S. Krishna Pillai.]

Government always advance against us. Some time ago when this House moved for a reduction of land tax the Government members said by way of objection that there are hundreds of persons who can pay and who do pay their tax, that there are several Government servants who get fat salaries and who will also get the benefit. We are not very much concerned if they also get the benefit. We always look to the interests of the majority of people. The Committee was of opinion that the majority of the people are unable to pay. If that is the opinion of the Committee, this House should be loath to attach importance to what the Law Member has said. If any dishonest debtor gets the benefit of it, let him have it. If the law can conveniently distinguish the one from the other, let that be done. But there is no possibility of doing so. Let not one innocent man be convicted rather than allow one hundred guilty persons to go scot free. Here the position is more favourable to justice being done. Let one dishonest debtor be benefited, but let not hundred honest debtors go without substantial relief. Therefore, Sir, that argument of the Law Member does not carry much weight with us.

The next argument was that this legislation is expropriatory in its tendency. This argument was advanced on the former occasion also. I do not want to dilate upon that. I only want to point out one matter. He who condemns the principle of expropriation in legislation must condemn it entirely. Now, what is the idea contained in this amendment? Is it not expropriatory in effect? One defect in the existing Clause is that it is somewhat bald in its expropriatoriness. In this particular amendment, it is rather subdued. According to the amendment, interest shall not be charged on existing and future debts for the next three years at more than six per cent. I can understand the Law Member if he has brought forward an amendment to the effect that hereafter no one shall be entitled to claim more than six per cent. interest on loans that are taken after the Regulation. If that was the position I can understand. Now, half the expropriation which my learned friend condemns is already in it. It only relates to the other half and that is the expropriation of interest for the past seven years.

It was stated that all other Legislatures condemned this procedure. Sir, Section 12 of the Mysore Act says:

"The Court may at any time direct that the amount of any decree passed, whether before or after this Regulation comes into force against an agriculturist, shall be paid in instalments with or without interest."

Now what does the Clause mean? It confers power upon the court in regard to decrees that have already been passed and that will be passed hereafter, to direct that the amount shall be paid in instalments without interest. What does it mean? Is that legislation expropriatory in effect?

There are similar provisions of a more comprehensive nature in other acts also. I shall refer to two such enactments which deal with expropriatory provisions. One is Section 31 of the Civil Procedure Code. My friend, Mr. Sambasiva Aiyar, while reading out that Section, referred only to two of the sub-sections. Till that Civil Procedure Code came

into force, that is to say for about 90 years, the law was that, till the date of the institution of suit, whatever may be the time which has elapsed, only half the principal by way of interest could be recovered by the creditor. The accumulation of interest was limited to this even during the pendency of the litigation; whether it is one year or ten years it did not matter. Nothing more than *aravasi* till date of decree was the general rule. Another *aravasi* from date of decree till date of recovery and that only at 6%. Just consider what far reaching results were brought by the new Section 31 of the C. P. C. It enables accumulation of interest to twice or three times during the pendency of the litigation, even though the *aravasi* interest was reached before date of suit. This was so, not only with regard to future loans, but with regard to loans in existence about which suits were pending. The Section further provided that interest shall be calculated on the aggregate amount of all the debts at a rate not exceeding 9 per cent. This extraordinary provision was brought to favour the capitalists. What I ask therefore is, how the principle of expropriation was considered then. The present burden to some extent is a contribution made by that Section. What about the Jenmi Kudian Regulation. That came into force for the first time in 1071. On the basis of the provisions in that, every Jenmi entered into transactions with his tenants. Properties were demised on *kanapattom* on the agreement that the Jenmi shall have renewal every twelve years and a right to enhancement of *michavaram*. Eviction and surrender were also possible. Thousands of *kanapattom* deeds came into existence on the above basis. The principle of expropriation was not stressed when the Jenmi Kudiyan Amendment Regulation was passed. Same was the case with the Chitty Regulation Amendment Bill. Under Section 52, every foreman was enabled to postpone chitties for a period of one year. Under Section 53 of that Regulation every honest man, who paid his share of the amount anticipating that he will get back his money, was denied that amount. Many more instances, where the principle of retrospection was upheld, could be quoted. What I am aiming at is to show that it is no new principle which appears to have been discovered especially in connection with the Debt Relief Bill. Every legislation contains retrospective provisions in one way or other. Unfortunately the amendment accepted by the House last time contains a retrospective Clause in all its nakedness. If the expression 1105 is deleted out of it, the theory of expropriation could not have been advanced with much force. We were honest in our amendment and that is the only mistake about it.

The Law Member stated that the Conciliation Board is the only salvation for the debtor. It was contended by him yesterday that they should be tried as experiments. He also said that we would be risking a good deal if we place too much reliance on the various provisions of the Relief Bill. The non-officials contended that, if that is so, the Board must be made available to all the debtors enabling them to present the case before that tribunal. We demanded that justice be done to all debtors. The Law Member said no. It could be given only in small doses according to him. To-day his arguments have

[Mr. Puthupalli S. Krishna Pillai.]

entirely changed. He says that, now that the debtors have been given the Boards that they desire, nothing more could be given as it would offend the principle of retrospection and expropriation. Let us not twist our argument in this manner.

In conclusion my submission is that the Clause which is now sought to be deleted does not offend any legal principles so far as I can see. It completely offends the morals of the House in the sense that the House is now called upon to go back upon the decision once arrived at scarcely three months ago. It appears to me that this move is as a result of the agitation of the creditors and some newspaper criticisms read out by the Law Member. Those circumstances ought not to weigh with us now. What the Government are expected to do is to lighten the burden of the agriculturists that is recognised as heavy. That is not achieved by lightening the burden that will hereafter come into existence. It is his past burden that requires relief and that is what is embodied in the Committee's recommendation. With these words I oppose the amendment.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*) Sir, I am afraid that although many speeches have been made in opposition to my amendment, the real point I urged has not been canvassed at all except by one or two. Even they did not try to meet my argument; there was only a mere denial. I agree with everybody in this House that every agriculturist who deserves relief should be helped, and I am prepared to give it. There is no need of any argument on that point; for, on that point there is no difference at all. What I urged was that Government ought not to extend relief to that agriculturist who is really able to pay his debts, it being admitted that he who is unable to pay up his debts requires relief. This was my point and no honourable member has met it. Mr. E. V. Krishna Pillai said that *every* debtor is unable to pay and Mr. Changanachery Paramesvaran Pillai said that every debtor must be given relief irrespective of his ability to pay up his debts. This is no doubt a reply, but does not represent the view expressed by the majority of the speakers who spoke on this motion. However, I shall deal with them. First, in regard to what Mr. Changanachery Paramesvaran Pillai said. It will be interesting to recall what he said on a Debt Relief Proclamation. In 1935 a Royal Proclamation relieving the agriculturist debtors against execution for decree debts was issued. When the Assembly met after that, an adjournment motion was tabled to discuss it. The criticism then levelled against the Proclamation was that the Government did not discriminate between an agriculturist who was able to pay and one who was not able to pay his debts and that the Proclamation extended relief to *both* alike. This point was pressed by Mr. Changanachery Paramesvaran Pillai too, and in answer to a specific question from me he said that relief should be given only to deserving agriculturists who are unable to pay up their debts and that a distinction should be made between one who is able to pay and one who is unable to pay his debts. This may be seen from the debates of 23rd May 1935. That is

exactly my position to-day. When Government take that position, then Mr. Changanachery Paramesvaran Pillai would dissent, even though it was his own view a few months ago. Everybody can change views. There can be no doubt about it. But it is surprising that on an identical subject-matter there should be such a *volte face*. He must have his own reasons for it. I will not dig into them. I will only throw his own words at his face and ask him to eat them if he dares do so. Then in regard to Mr. E. V. Krishna Pillai whose point was that every debtor is unable to pay. If that be so, I simply ask him, "Go to a Conciliation Board and prove it, and you will get reduction of interest ultimately". I do not deny relief to anybody. I am for giving relief to everybody, even to the planters as well. I am quite prepared to extend relief to the small debtor and to the big debtor provided he is not a rich debtor. By rich debtor I mean one who is really able to pay up his debts, one whose debts are well within the limits of his assets. The real question that I asked was, if a debtor be a rich debtor, why allow him a reduction of interest retrospectively. It is to that question that I wanted an answer:

PRESIDENT: The House will now adjourn to meet again to-morrow at 11 A. M.

The House adjourned at 4-47 P. M.

P. PARAMESVARAN PILLAI,
Secretary to the Sri Mulam Assembly.
